

**JUSTICE SECTOR REFORM IN THE DOMINICAN REPUBLIC:
A STAKEHOLDER ANALYSIS**

October, 1996

(ELECTRONIC DRAFT COPY)

TABLE OF CONTENTS

I.	INTRODUCTION	1
A.	Background	1
B.	Scope of Work	1
C.	Personnel	2
D.	Organization of the Report	2
II.	METHODOLOGY	3
A.	Selection of Stakeholder Analysis Focus	3
B.	Selection of Interview Subjects	3
C.	Stakeholder Analysis	3
D.	Mapping Reform of the Justice Sector	3
E.	Workshops and Focus Groups	4
III.	POLITICAL AND LEGAL ENVIRONMENT FOR REFORM OF THE JUSTICE SECTOR	4
A.	Political Environment	4
1.	Overview and Macro-political Map for April, 1996: the end of the Balaguer era	5
2.	Summary of the Balaguer Political Map and Macro-political Constraints	8
3.	The Macro-political Map for September, 1996: the beginning of the Fernandez government	9
B.	Legal Environment	11
1.	Virtual impunity of magistrates, judges, prosecutors, and lawyers	11
2.	Administration of Criminal Justice	12
3.	Alternative Mechanisms for Dispute Resolution	13
4.	Lack of resources to operate an efficient judicial system and lack of experience to manage them.	14
5.	Obsolete laws and cumbersome procedures which slow resolution of conflicts and lend themselves to corruption	15
IV.	THE JUSTICE SECTOR	16
A.	Elements of Support and Opposition to Reform	16
B.	Support and Opposition for Justice Reform under Balaguer	17
C.	The Political Environment for Justice Sector Reform under Fernandez	20
D.	Findings from the Justice Sector Map	22
E.	Constraints for Justice Reform	24
V.	EFFORTS IN JUSTICE REFORM	25
A.	General Priorities for Reform	25
B.	Leadership and Coalition Development	27
VI.	CONCLUSIONS OF THE STAKEHOLDER ANALYSIS AND MAPPING EXERCISE AND ELEMENTS FOR A JUSTICE REFORM STRATEGY	28
A.	Who: Government and/or Civil Society	30
B.	What: Judiciary Reform and/or Administration of Criminal Justice Reform	31
C.	How: Fast Results and/or Long Term Strategy	31

APPENDICES

I. INTRODUCTION

A. Background

The Dominican Judiciary is the weakest of the three branches of the government. The Judiciary, as established by the Constitution and by law, should be an independent branch of the government. However, in reality the court system is not free from interference from either the Executive and the Senate.

The largest single problem in the Dominican justice system is rampant corruption. Judges and prosecutors are poorly paid. A salary for a typical judge is 7 - 10 thousand pesos per month (US\$500-800). Although the salary is comparable to what other professionals make in the Dominican economy, it is not enough to support a family comfortably. Most judges feel compelled to supplement their income by other means. Some do so through second jobs or business on the side, but many do so by soliciting or accepting bribes.

Under the terms of the Pact for Democracy signed by the major political parties and sector of civil society in August 1994 to end the Dominican post-electoral crisis, the Constitution was amended to: give the judiciary administrative and budgetary authority; institutionalize the career progression of judges, and reduce the politicization of the appointment of judges. These changes are pending the passage of the judicial career law, the designation of the National Judicial Council (Consejo Nacional de la Magistratura), and other implementing legislation.

USAID is planning to initiate a project to build Democracy by seeking to increase the independence, professionalism and effectiveness of the judiciary, within the framework of strengthening democratic institutions. The project will address the Agency's goal of building democracy within a stable civil and commercial legal environment while strengthening the Dominican Republic's rule of law, as opposed to the existing rule of influence. This new project seeks to promote the reforms included in the Pact for Democracy, enhance the independence, professionalism and efficiency of the judiciary and related institutions, and support efforts of Dominican private and public sector citizens to identify problems and plan reforms of the judicial structure in their society.

This study will examine the positions and level of support of key stakeholders for implementing judicial reforms in the Dominican Republic. The study will serve as input to ongoing discussions centering on a strategy for the design of a judicial reform project as well as on the identification of individuals, groups, and mechanisms to assist in the preparation and implementation of such a project.

B. Scope of Work

USAID/Dominican Republic contracted the assistance of a consulting team to develop a stakeholder analysis for implementing judicial reforms in the Dominican Republic. The stakeholder analysis was to identify where USAID and other important actors sit in the environment, what was the distribution of support for judicial reform among key actors, and how specific sectors of society would react to particular policies. The team included a Senior Policy Change specialist and a lawyer.

The terms of reference (Appendix F) called for the team to assist USAID in the preparation of a strategic plan for implementing judicial reforms by applying stakeholder analysis. According to the original scope of work, the team was also to assist USAID in the initiation of the Consultative Group on judicial reform. In developing the strategic management plan, the team was observe the following steps: (i) agreement on the strategic management process; (ii) identification and clarification of the roles, objectives and strategies for the Consultative Group, Justice Sector NGOs, and the GODR; (iii) identification of the internal strengths and weaknesses for the Consultative Group, Justice Sector NGOs, and the GODR; (iv) assessment of the threats and opportunities from the external environment; (v) identification of key constituents/stakeholders and their expectations; (vi) identification of the key strategic issues confronting the Consultative Group; (vii) design/analysis/selection of strategy alternatives and options to manage the issues identified; (viii) implementation of strategy; (ix) monitoring and review of the strategy's performance.

The activities accomplished in the identification of key stakeholders and their position on judicial reform covered most of the steps mentioned above. Since the team was working in the middle of the 1996 presidential election campaign, it was agreed that the development of a strategic management plan and the initiation of a Consultative Group on judicial reform were tasks to be completed in a second trip, after inauguration of the new President and when the new political scenario would be more clearly defined. However several factors intervened to modify the scope for the second trip: the officer in charge of developing the justice sector project was transferred, no further actions had been taken on developing the Consultative Group between the consultants' trips, a high degree of activity in the wake of the changeover to the Fernandez government, and FINJUS (coordinator for the Consultative Group), which was to assist in coordinating the team's visit, was completely focussed on implementing the Foro to be held on September 27-28. It was decided that the team's attention would concentrate on updating the stakeholder analysis, an assessment of opportunities and threats for justice reform, and an exploration of strategic options for reform. Given the absence of the Consultative Group, the development of a strategic plan was considered inappropriate for the time being.

C. Personnel

The study was carried out by a team of consultants under the Indefinite Quantity Contract that Management Systems International holds with the USAID/DR, Contract # 517000-I-00-4067-000, delivery order 7. The team members were Benjamin L. Crosby, team leader, Senior Policy Change Specialist, Director of the Implementing Policy Change Project and principal expert in stakeholder analysis; and Ana Maria Linares, a lawyer specialized in institutional modernization and judicial reform, with experience in both common law and civil law systems.

The team would like to acknowledge the support received from the Strategic Objective #3 Group of the USAID Mission in the Dominican Republic. We would like to give special thanks to Doug Ball during the first phase of this study, who in addition to providing tireless support, proved a quick study of political mapping and stakeholder analysis techniques. Despite multiple activities and the management of another major assessment exercise, Manuel Ortega provided timely and valuable support to the team.

The field research for this study was carried out during two separate field trips: the first was a two and a half week period, between April 15 and April 30, 1996; and the second, a two week trip between September 15 - 28, 1996, one month after the inauguration of the new President.

D. Organization of the Report

This report is divided into five sections. Following the introduction, the report will discuss the approach and methodology used by the team in completing the stakeholder analysis. Section II addresses the methodology used and discusses the limits and constraints encountered. Section III briefly provides an overview of the support found for judicial reform. It also discusses the findings of the micro-political mapping exercises carried out. Section IV examines the team's stakeholder analysis findings. It includes a discussion of conditions favorable and legal constraints to judicial reform. Section V examines the conclusions that have emerged from the findings and briefly discusses implications of those conclusions for the implementation of judicial reforms in the Dominican Republic. At the end of section V the team makes some preliminary suggestions for potential avenues or approaches for USAID assistance in the justice sector. Finally, a set of appendixes are included which cover the following:

- Appendix A: Macro-political maps
- Appendix B: Micro-political maps for justice sector reform.
- Appendix C: Stakeholder tables
- Appendix D: Glossary of Legal Terms
- Appendix E: List of persons interviewed and contacts
- Appendix F: Scope of Work
- Appendix G: Technical Note: Stakeholder Analysis: a Vital Tool for Strategic Managers

II. METHODOLOGY

The methodology employed in this study is "Stakeholder Analysis." In order to enhance the findings presented by the stakeholder analysis, modified political mapping at both macro (government) and micro (judicial sector) levels were also utilized. A full description of the techniques used can be found in Appendixes G and H. Briefly, the process used for this study was as follows:

A. Selection of Stakeholder Analysis Focus

For purposes of the analysis, during the first phase of the study, it was decided to subdivide the reform of the justice sector into three main areas: (i) institutional reforms, i.e. selection and appointment of magistrates, etc., (ii) substantive reforms, i.e. updating laws and codes, and (iii) court administration reforms, i.e. handling of caseloads, tracking systems, etc. The team was to explore the degree of support, opposition and indifference to these three areas of the justice system. From the first phase of the study, however, it had become apparent that there was a rough division in justice sector between proposals emphasizing judiciary reform and civil/commercial procedural reform, and those proposals emphasizing reform in the administration of criminal justice and in those institutions under the executive branch with a significant role in the administration of justice, i.e., the Ministerio Publico. Most of the second phase thus centered on exploring the relative support and institutional capacity for carrying out reforms in these two main areas.

B. Selection of Interview Subjects

Given the time constraints of the assignment (four and a half weeks in-country), only a limited number of interviews were possible. And since there was an update component, many subjects were interviewed more than once. Efforts were directed at opinion leaders and key government actors in the justice sector or affected by it. People interviewed included government actors in the executive, judicial and legislative branches, political party members, non-government organizations such as human rights groups and women groups, law schools, business leaders, and journalists. No attempt was made at systematic sampling except for the effort to include at least one interview from each important institution within each sector. It is expected that these will be supplemented by further interviews in the team's scheduled visit after inauguration of the new president. A full list of persons interviewed and their respective institutions may be found in Appendix E.

C. Stakeholder Analysis

A stakeholder analysis is designed to determine the particular interests and degree of support or opposition from actors with interests in a particular area. The stakeholder analysis utilized in this study roughly follows the methodology outlined in Appendix G. To obtain data, the team interviews were structured primarily to provoke thought, but also to extract data in four areas: 1) perceptions regarding the evolution, progress, priority, context, and leadership of reforms; 2) strength of support for and understanding of the reforms; 3) who supports and who does not, and degree of debate of reforms; 4) specific interests of groups interested in reform of the justice sector. The results of the interviews were then compiled into a stakeholder table (Appendix C) summarizing each group's interest, its support or opposition, and intensity of the group's support or opposition.

D. Mapping Reform of the Justice Sector

The stakeholder analysis, an extremely valuable tool by itself, is considerably enhanced when used in conjunction with other environmental analysis tools. To that end, modified "micro-political maps" (for complete description see Appendix H) were constructed in order to give a visual or graphic representation

of support or opposition to reform of the justice sector. Rather than using the standard categories of the political map, the categories were simplified to support and opposition, and groups were then arrayed to the left and right depending on the nature of their point of view and the strength of their support or opposition (figure 1, below). Two types of maps were constructed: the first (referred to as a "macro" political map) is designed assess support and opposition to the past Balaguer government and the current Fernandez government in order to provide a view of the political context in which decisions about judicial reform would be taken; and a second type (sometimes referred to as a "micro" political map) to more specifically analyze support and opposition to reform of the justice sector during both the Balaguer and Fernandez governments.

Both the stakeholder analysis table and the political maps contain references to groups not interviewed in the stakeholder analysis; however, the team was able to obtain sufficient secondary information to be reasonably certain of placement of those groups on the map (these include ANJE and labor unions, among others). The placement of those groups on the map and the summaries presented in the Stakeholder Table will be corroborated on subsequent visits.

E. Workshops and Focus Groups

The team held two workshops with the Consultative Group established by USAID to advise the agency on the reform of the justice sector. This informal group was inactive for over a year and only started meeting again in 1996. A list of its 21 members can be found in Appendix E.

During the first phase a workshop was devoted to explaining political mapping techniques with practical examples. Members of the Consultative Group were then asked to develop their own political map to be discussed in a subsequent meeting. In the second workshop a complete micro-political map for reform of the justice sector was constructed. Although only six individuals attended the second workshop, it nevertheless provided an excellent opportunity for open discussion and active participation. (We hesitate to draw any conclusions about the low level of participation in the second workshop.)

The team also met with a focus group organized by the law firm Russin, Vecchi and Heredia Bonetti. Approximately 20 people attended this meeting. There were lawyers from different prestigious law firms in Santo Domingo, as well as judges and magistrates. Current problems of the justice sector were identified and a significant discussion was given over to the possibility of reactivating the national bar association.

In the second phase, three group meetings were held: one was held with a group of key actors in the justice sector in Santiago; another with the Asociación de Abogados Empresariales; and the third with the INTEC working group. The latter developed a macro-political map which was found to be quite helpful to the consultant team.

III. POLITICAL AND LEGAL ENVIRONMENT FOR REFORM OF THE JUSTICE SECTOR

A. Political Environment

Two views are provided for the political environment: the first is for April, 1996, just before the first round of the Presidential elections, and the second in September, 1996, one month after Leonel Fernandez had taken office. Since no new President enters office with an entirely clean slate to deal with, it is important to understand the nature of the government that Fernandez would inherit after nearly 20 years of Balaguer rule. The political environment is the product of political negotiations and deals that the new President was not party to, but will nevertheless have to manage. It is to that environment that this section is directed.

1. Overview and Macro-political Map for April, 1996: the end of the Balaguer era^a

In April, 1996, the Dominican Republic was at a historical political cross-roads. After the highly disputed 1994 election which resulted in Constitutional reforms leading to a shortened term of office for President Joaquín Balaguer, it was virtually certain that not only would the government change but expectations were building rapidly for implementation of major reforms. Although there was certainty that Balaguer would leave office, he would leave undefeated, and would bequeath to his successor a set of institutions influenced by nearly (over) 20 years of rule. While there were strong differences of opinions regarding who would win the elections, it was also (reluctantly sometimes) recognized that the next President would have to deal with an extremely complicated political environment.

The platforms of each political party outlined in CONEP's comparative table revealed very ambitious agendas in 15 major policy and issue areas. It was clear that implementation of a significant part of any of these agendas will require a strong political mandate (as expressed in the electoral process) as well as a sound strategic sense and clear capabilities to mobilize resources. It was not clear whether any of the parties would actually have such a mandate at the end of the process. Moreover, it was unlikely that, even if his forces were defeated, Balaguer would simply disappear from Dominican politics. While this context presented very tricky political environment, it is the one that would be faced by the next President.

While in many quarters the Balaguer government appeared to be discredited, the political map (figure one) reveals fairly wide and substantial support. Further, both the breadth and depth of support for Balaguer seems all the more remarkable given what was considered by many, an extremely fraudulent electoral process in 1994.

Social Sector Support: In the 1994 elections, Balaguer maintained his traditional support base in the countryside among both campesinos and large landholders; while not widespread, he also attracted support from some labor groups. Balaguer received support from some sectors of the professional class, as well as some steadfast loyalty from part of the private sector, a product of early days of confrontation with Juan Bosch and others perceived as either socialist or social democrats. Support for Balaguer clearly declined in the 1994 election compared with that in 1990, but much of his traditional base was maintained.

Political Party Support: Although Balaguer did not have a majority in the Cámara de Representantes, he maintained a narrow margin within the Senate. Control over the PRSC was maintained by Balaguer in both the party machinery and the Senate. Peynado was the candidate but it was not clear how much autonomy he had nor how much he would be able to exert if he became President. Although there were rumors of fading party loyalty of PRSC senators, there were no significant desertions. Within PRD's Senate delegation there were some desertions and splits; in the Cámara, PRD maintained an ample advantage over the PRSC.

Adequate support in the legislative body of a country is normally quite important to a government's success with its policy agenda, but under Balaguer that importance was reduced by Art. 55 of the Constitution which grants wide decree powers to the President. Many observers have argued that with Art. 55, Balaguer did not need the Congress, and if obstacles were too great within that body to his legislative and policy agenda, the appropriate decrees were issued. Although this Article remains for the next President, there has been sufficient criticism so as to make it substantially more difficult to put the instrument to frequent use.

Pressure Group Support: While political parties are important for control of Congress and passage of legislation, interest or pressure groups are key to articulating and mobilizing support for different demands.

It was decided that the early (April) analysis and political map would be left intact. The section provides considerable data on actor groups and provides a point of departure for the analysis of the political bases for justice reform. The section also provides interesting contrast with the current political context for reform.

Such pressure may emanate from either what is known as "civil society" or from within the government itself (through specific groups such as individual Ministries, the armed forces, etc). Issues which may appear to have grave importance within a particular sector of society may actually be absolutely unimportant to other or even most sectors. Thus the success of a policy initiative will depend not only on the clear and attractive articulation of an issue but also on the quality of how it is mobilized toward vital decision-makers. Those groups which have sufficient resources to make themselves heard, or which can potentially pose a threat to the government through withdrawal of support or can enhance it by lending support, will find their messages listened to. Those which pose no threat or which provide no obvious benefit for the government will find it difficult to get their demands addressed by the decision makers.

Some observers have argued that the Balaguer struggled to stay in power after the 1994 elections and was weaker or perhaps less activist compared to his previous governments. Nevertheless, as can be seen in the political map, he continued to enjoy ample support within the pressure group sector. A major source of support was the "Anillo", Balaguer's closest circle of advisors and associates. The group was not only a key element of support but also served to regulate the flow of information and demands to Balaguer. It was widely perceived that access to this small group was tantamount to access to the President and resolution of a demand. As a consequence the group acquired significance and some measure of power of its own through loyalties built up by providing other groups access to Balaguer. It was this small group that appeared to have both the most influence over the President as well as that which benefitted most.

In addition to the "Anillo", there were several government institutions which provided key support and the main base of power for the Balaguer government. As the recently promulgated civil service law has only been partially implemented, jobs in the Government are usually acquired through patronage and as reward for either active support or some other demonstration of loyalty to Balaguer. Since Balaguer had been in power intermittently for some twenty years, political loyalty to the President was well built up and entrenched in virtually all Ministries and most agencies. Although the Central Bank has its own personnel policies and greater autonomy, it too has sometimes been subjected to the patronage imperative.

One exception to the patronage framework has been the Military and the National Police. While the officer corps in both branches promote up through the ranks, the very top officials must, apparently, required the full blessing of Balaguer in order to assume key positions within either branch. It was said that when an officer begins to receive invitations to the Presidential Palace, that he was about to be promoted or shifted into prominent position within the military. Although the loyalty of the Armed Forces was unquestionable for many years, some observers noted an increased contact by high-ranking officers with members of the opposition party.

The Church, through the Cardinal, the Archbishop of Santo Domingo, receives direct benefits from the government. While certainly not monolithic in its support, the highest levels of the church rarely criticized the President and were, by most accounts, highly supportive of Balaguer. Although elements of the Conferencia Episcopal supported Balaguer, the balance of opinion appeared less warm.

As one may appreciate from the Political Map (Figure One), most actors within core were either government or government related. The patronage system provided an easily mobilizable, large, set of vested interests for maintaining Balaguer's presence. The likely change of government with the elections made these groups highly vulnerable to being replaced by loyalists from the winning party. As the elections near, these groups were increasingly mobilized for the PRSC campaign, and assisted in Balaguer's intervention in Peynado's campaign.

While the election would cause significant changes in the array of forces in the core support area of the Map, it was less clear how much Balaguer's ability to hold on to his support base and influence government would be affected.

Balaguer's support from groups outside government or his own political "machinery" was less solid but nonetheless numerous and important -- perhaps as much for their lack of direct opposition as for their

support. Among the important groups here were the most powerful economic groups (Vincini, Pellerano) as well as some of the Dominican Republic's most influential business groups, such as the Junta Agrícola Dominicana (JAD) and the Asociación de Industriales de la República Dominicana. While CONEP is shown on the Map in opposition, it is tempered by the fact that some of its important association members were in the support area. The position of "one foot in and one foot out" characterized several groups and tempered possible opposition. It is important to note that with a change in government there would be an opportunity for them to shift more directly into support, but it would also depend on their sense of having concrete benefits to gain by a more complete shift. Interestingly, some of the DR's leading "think tanks" (FE y D, and COE) were not particularly oppositional to the Balaguer government even though they were critical of the lack of advance in economic reform issues. Their lack of opposition to the government per se, allowed Balaguer to remain relatively immobile on the issues themselves.

The position of the press was quite important. Situated mostly in the ideological support area, there was no significant direct opposition to Balaguer. While this may have occurred on paid, opinion-editorial programs on television, there appeared to be little worry by Balaguer that they could sufficiently mobilize opinion to pose a threat -- probably a correct assertion since these programs appeared to have an extremely small share of the audience. On the other hand, it was alleged that if the "prensa escrita" published a critical article, the government would retaliate by withdrawing advertising. With this tactic the government was able to effectively neutralize the mobilizing ability of newspapers with the largest circulation.

On the Map, a substantial number of groups in the opposition sector can be noted, especially on the left. While growing and significant, these groups were mostly small with relatively few resources and low capabilities for mobilizing action. The labor union confederations, while potentially powerful, were fragmented and have been weakened over the past few years. Some actions of opposition "centrales" were counterbalanced by the CASC and its apparent close relation with the government party. There were some attempts at re-organization of the unions but it does not appear to have increased their effectiveness and/or capacity to mobilize.

In some countries, universities have played an important role in the mobilization of opposition. However, the Dominican Republic's largest university, Universidad Autónoma de Santo Domingo (UASD) has had considerable economic problems over the past few years and has seen conditions decline. Pontificia Universidad Católica Madre y Maestra (PUCMM) has been more stable and indeed, through its Rector, Monseñor Agripino Nuñez, the University has become both more prominent and has taken a lead role in several areas. Most notably, it is the lead institution in the *Grupo de Acción para la Democracia* (a broad based coordinating group for some 30 different "civil society" organizations), whose principal aim is to assure the implementation of the reforms of the 1994 constitution, and to mobilize opinion on a series of "national priorities" through the *Pacto para la Democracia*. However, the position of the Cardinal, has on occasion served to temper the voice of the University.

There are many other groups, that for the sake of convenience on the political map, have been lumped under some common names. There are several human rights groups which represent opposition to the government in specific areas, but these groups are small, work independently, and have few resources. There are also growing numbers of NGO groups but many of these are new and have very particularized interests, which may not coalesce well or easily with others. Many have received donor funding and technical assistance. Groups such as CIPAF and the Movimiento de Participación Ciudadana have moved quickly and established themselves as effective actors and have had some successes at mobilizing forces of support on specific issues and in lobbying for policy changes. Success among the groups generally has been quite uneven, however.

2. Summary of the Balaguer Political Map and Macro-political Constraints

While many observers considered Balaguer to be discredited, he did maintain substantial political party and pressure group support. At the same time it seems noteworthy to mention that there did not seem to be a large number of pressure groups associated with political parties located in the opposition sectors to the left (or the right for that matter) capable of mobilizing resources or opinion on significant issues. The groups with the greatest number of resources and those which seem to have been effective in pursuing their interests were either those associated with the government or which have benefited significantly from close or supportive relations with the government. To rid the ranks of government of Balaguer influence and loyalty will be neither easy nor quick. The fact that the new government will not be able to easily control the Congress further reduces the chance that Balaguer's influence can be easily or quickly eliminated.

Balaguer, even outside government, through access and influence over pressure groups within both the private and public sectors, will still be able to exercise a considerable measure of power. Judging from the political map, Balaguer likely will be a much more effective opposition than the opposition to him as President. The problem for the next government will be how to neutralize Balaguer's influence and opposition.

Several constraints emerge from the macro-political map. While most of these will not appear particularly new to the well-attuned observer of Dominican politics, they appear to be factors that will be highly salient for any potential movement in the justice reform area, and appear highly relevant as general constraints to the new government in other areas as well.^b

- The entrenchment and institutionalization of the present system will significantly constrain major reform initiatives. To reform the system will take several years and those currently benefitting from the system will likely put up resistance wherever they can to avoid change.
- Some important sectors, theoretically capable of providing leadership for reform, are divided. An important example is the Church, where the Cardinal strongly supported Balaguer, but the Episcopal Conference was mostly reform minded. Similarly, there are divisions in the private sector, some of which benefited significantly from the present regime.
- The pervasiveness of corruption can and will likely cause a drag on reform efforts. It has the possibility of creating clamor to carry out "revenge" trials on prominent figures in the current government which could easily dissipate energy for larger reform efforts. Moreover, since the public sector is now considered highly tainted, it will not be easy to attract qualified candidates (issues of pay and the like aside).
- The need for broad reform in several areas will create strong competition for resources. The government, unless it receives abundant donor assistance and IFI funding will not be able to undertake its complete agenda. The ability to maneuver politically, therefore, will be key to assuring the funding of reform initiatives.
- There do not appear to be any strong vehicles outside government with both resources and commitment, capable of championing and advocating change. Organizations such as CONEP are beginning step forward but they still lack the resources to increase their advocacy efforts much

The following conclusions/constraints have been left from the first draft submitted in May to provide a contrast for the following section and to illustrate the complexity and tenacity of the problems of justice reform.

beyond the current level.^c It is perhaps the absence of such vehicles that accounts for the lack of progress on reform (of virtually any kind) despite an apparent and profound dissatisfaction with the status quo.

- While there was considerable opposition to Balaguer and to reform of the system, sectors are divided and in terms of capacity to mobilize forces, the opposition is relatively weak. It also should be remembered, that just because a group opposed Balaguer does not mean it will automatically support the new government.

3. The Macro-political Map for September, 1996: the beginning of the Fernandez government

As expected, dramatic shifts took place on the political map with the election of Leonel Fernandez. While still very early in the Fernandez regime, some elements have begun to emerge which will have serious implications for decision-making by the government and its ability to implement and enforce important policy decisions. During his inaugural speech, Fernandez announced that he would give high priority to justice reform and named Franklin Almeyda as *Secretario del Estado para la Reforma de Justicia*. Nevertheless, decisions about justice policy, as well as other changes sought, will take place in a larger political context in which priorities will shift and be modified as the government's support and political resources wax and wane.

Support for Fernandez:

On the positive side, a first glance at the Macro-political Map for the Fernandez government (Figure 2) reveals a welcome shift of many actors into the support sectors, and considerable lessening of opposition - at least compared to the circumstances at the end of the Balaguer government. Although Fernandez has considerable Core sector support, most is from the more amorphous Social Sectors, the product of a successful electoral campaign; Fernandez was an attractive candidate to the urban middle class, professionals, and the business sector. However, it is extremely difficult simply to maintain support from the Social Sectors (see Technical Note, Appendix H), it is even more difficult to mobilize for the concrete actions needed to pursue the government's new agenda. To his credit Fernandez has made skilled use of the media and an energetic schedule of speeches and rallies has certainly helped to sustain support from the social sectors; however, such activity is draining and often not wholly productive.

In the Pressure Group sector, most of Fernandez' Core Support is from specific groups which represent fairly narrow interests, including PUCMyM and business groups such as JAD and ANJE. While this is reinforced by a variety of other groups in the Ideological Support sectors, their support is tentative and awaits concrete decisions concerning priorities and resources. To the extent that these groups are satisfied they will move closer to the center, but those whose interests find little satisfaction will likely move toward the opposition. One should also note that there are competing demands on both sides within the Ideological Support sectors. With adequate resources, the demands on both sides could possibly be met; but if resources are slim, it is likely that one side will be more favored than the other. Once Fernandez begins to sort out how he wishes to allocate resources, fallout to the opposition sectors will occur.

In the External Sectors, Fernandez has some significant resources in the form of solid support from donors and the IFIs. While the consultant team was in Santo Domingo, the government signed a new loan for \$50 million dollars with the IDB. Also, there is considerable interest in supporting the new government in a variety of initiatives that had either been stalled, ignored, or deemed politically inexpedient under previous Balaguer governments. While still absent, assuming favorable policies, greater foreign investment should also be forthcoming.

Despite representing the private sector, much of CONEP's funds for reform advocacy activities has come from international donors.

Opposition to Fernandez:

The Macro-political Map reveals several serious problems confronting the Fernandez government. First, Congress is completely controlled by opposition parties. Recently, the two main parties entered into a pact to pursue a campaign of opposition against Fernandez in the Congress. While Fernandez entered into an agreement with Balaguer and the "reformistas" to assure electoral victory, it was limited to the election. It was also pointed out by some interviewees that the opposition also has enough votes to impeach Fernandez, something that Congressional opposition under Balaguer never enjoyed.^d With just 13 of 120 votes in the *Camara de Diputados* and only 1 vote in the *Senado*, Fernandez' agenda can only be achieved through what will most likely be difficult and costly bargaining. And while the opposition is split between PRSC and PRD, both have considerably more political experience and are certainly better organized for opposition than is Fernandez for running the government.

Second, in addition to an opposition Congress, Fernandez lacks real control over key mechanisms of government. The current Judiciary is the product of the Balaguer governments, and until the new Supreme Court is named and begins the task of re-staffing the judiciary, the current judges will remain and in a position to block initiatives of the government, as may be seen in the recent rejection by the Supreme Court of two appointments to the Land Registry Department. Likewise, most of the bureaucracy (with the exception of current top officials) owe their jobs to former President Balaguer. Although it is not clear that the opposition has sought to mobilize the "leftover" bureaucracy, it can pose a significant threat to Fernandez policy implementation capabilities.

Fernandez may have decisional authority to promulgate decrees, but he still must gain the collaboration of Congress if he is to enact significant policy or legislative initiatives. Even though spending may continue on a "continuing budget authorization" if agreement is not reached with Congress on the budget, important changes in the structure or allocation of the resources cannot be made without the consent of the Congress. In the same vein, to implement new policies or actions requires the collaboration of the bureaucracy and decisions by a judiciary which facilitates rather than blocks initiatives of the Fernandez government.

Constraints and Implications:

- The **depth of the talent pool that Fernandez can draw on** to fill posts in the government as officials resign for one reason or another. An important concern is to what extent Fernandez has already exhausted the pool of "first-line" talent available to him.
- The **absence of an apparent strategy to attract greater support to the core support sector**. Part of this may be due to the newness of the government but part is also due to the lack of real control over resources that could be used to attract support. Nevertheless, if Fernandez is to be able to make progress against the Congress, he will need to develop both a wider and more articulate constituency in the Pressure Group sectors.
- The **absence of a clear mandate**. Fernandez is the second round winner but placed second in the first round (he obtained 34% of the vote while Peña received 44%). The victory in the second round was narrow but was provided, according to most observers, by the deals cut with the PRSC. Such deals also limit or raise the cost of dealing with other groups (such as the PRD).
- The **level of resources available** to President Fernandez. It is not at all clear that he will be able to either raise taxes very much or be able to increase the budget by much. Although resources from the donors can provide some breathing room, these will only come with yet-to-be-defined conditions.

While several interviewees argued that there are enough votes it is unclear whether the Congress or the Senate actually have the constitutional power to impeach the President.

- The **current priorities of the Congress**. At this writing, the Congress had become adamant in its demands and intent to enact a series of Constitutional Reforms. According to one key member, the Congress will take up other issues only after the reforms have been enacted. If so, serious delays could occur in the enactment of important measures in the Fernandez agenda, something not designed to attract and/or increase his support.

B. Legal Environment

The legal environment for justice reform in the Dominican Republic is characterized by a complex variety of problems, all requiring serious attention. Given the political context and the lack of a clear strategy in support of justice reform from government or civil society, it will be necessary to prioritize in order to ensure that key issues are not overlooked and that efforts at reform concentrate on those issues that can produce the highest results.

This section identifies and analyzes the following five legal issues:

- **impunity** of all actors participating in the justice system,
- major problems of the **administration of criminal justice**, including the *Ministerio Publico*, the national police and prisons,
- status of **alternative mechanisms for dispute resolution**,
- **resources needed** to operate an efficient judicial and prosecutorial system, and
- problems relating to the existence of **obsolete laws and procedures**.

Of these five areas, the first two -impunity and criminal justice- receive less attention than the rest, despite the fact that they produce some of the worst problems in the administration of justice. This may be explained by the fact that major actors involved in the administration of criminal justice -*Ministerio Publico*, national police and the prison directorate-, are under the authority of the Executive branch of government and do not belong to the judiciary per se. However, given that any significant reform in the functioning of the judiciary will require passage of legislation by Congress, which for the time being does not appear very receptive to Fernandez' government, activities directed to improve the way criminal justice is administered provide a good opportunity for a strategy seeking short to medium term impact.

1. Virtual impunity of magistrates, judges, prosecutors, and lawyers

Mechanisms to control acts and omissions of judicial officers and lawyers exist in different laws but are rarely used. The deterioration of the judicial sector has reached a level where magistrates, judges, prosecutors and lawyers regularly transgress the law without fear of being disciplined, much less tried in a criminal court. Corruption and misconduct are prevalent while very few judicial officers or lawyers have ever been sanctioned. A strong system to discipline judges, magistrates, prosecutors and lawyers for corruption or misconduct is, however, a key element in a well functioning judicial sector, especially if judges are to be appointed for life, as will now be the case in the Dominican Republic.

Magistrados and *jueces de instrucción* are under the supervision of the *Suprema Corte de Justicia*. The *Suprema Corte* can investigate an alleged misconduct of a magistrate or a judge and undertake disciplinary sanctions. Sanctions can take the form of written reprimands, suspension without salary and removal from office. However, if the violation amounts to a criminal offense, the *Ministerio Público* has authority to initiate a criminal process against the officer in question.

There has been only one instance in which a magistrate, the President of the *Tribunal de Tierras*, was removed from his post after the media (Rumbo) denounced him for major acts of corruption affecting land titles. Despite the fact that the case had sufficient merits to be brought to court, no criminal action was ever pursued against this magistrate.

The lack of oversight of judges and magistrates is owed to the lack of leadership of the Supreme Court, the "esprit de corps" that prevails in a corrupt judiciary system where officials protect each other in order to protect themselves, and the weakness of existing mechanisms to sanction misconduct. For instance, a judiciary officer who does not serve notice on a party of a lawsuit is subject to a maximum fine of DP\$10.

Prosecutors (*Ministerio Público*) are under the supervision of the *Procurador General de la República*. All prosecutors, including the attorney general, are appointed by the Executive Branch, and are therefore under its direct supervision. The *Ministerio Público* does not have a statute regulating its functions, organization and operations. As a result, there are no clear procedures for dealing with cases of misconduct within the institution. Primitive disciplinary sanctions are contemplated in two articles of a 1927 law dealing with the organization of the judiciary. According to this law, prosecutors may be subject to reprimands by the attorney general, removal from office ordered by a tribunal as part of a condemnation judgement or by decree of the Executive Power.

The team did not find evidence of any prosecutor sanctioned or tried for alleged violations of the law or for misconduct. The *Ministerio Público* is widely perceived as an instrument of the Executive Branch with no independence or concern for representing society's interest.

Lawyers are required to follow the Code of Professional Ethics in their work. In theory, the Colegio de Abogados has oversight over all lawyers in the country. The Disciplinary Tribunal of the Colegio can investigate a lawyer and even revoke his/her license to practice law. Decisions of the Disciplinary Tribunal can be appealed to the Supreme Court of Justice. Only between 10-15 cases have gone to the Supreme Court for appeal in the past 15 years. Furthermore, lawyers who have had their licenses to practice revoked simply continue their regular activities without major problems because the Tribunal has no means to enforce its decisions.

2. Administration of Criminal Justice

Judicial resolution of a criminal case involves three distinct bodies: the *Ministerio Público*, the courts, and the national police. In theory, criminal offenses are to be investigated by a judicial police. However, no judicial police has ever been created as a separate body or entity in the Dominican Republic. Rather, authority to perform the "functions" of the judicial police belongs mainly to the national police and the *Ministerio Público*. Of the two, prosecutors from the *Ministerio Público* are supposed to be the primary investigators of criminal cases.

The law gives the *Ministerio Público* 48 hours to press charges against a person detained preventively. In practice, detainees may wait for months or even years before the *Ministerio Público* finally reviews and decides on the merits of their case. There have been instances where a person spent more time under preventive detention than the time it would have been required once sentenced to jail.

Another serious problem created by the lack of an efficient and appropriately functioning *Ministerio Público* is the predominant role played by the national police. Technically, the police are responsible for performing arrests and detentions under the limits of the law. However, because of the gaps left by a weak *Ministerio Público*, the national police has seized prosecutorial responsibilities which clearly go beyond their stated authority.

The police is performing not only detentions but also most of the investigations of alleged crimes. Because the national police is not necessarily trained in investigative procedures, many cases are wrongly classified as criminal when in fact they are only misdemeanors. Once a case is classified as a crime, it is subject

to a more strict, in depth and lengthy procedure than a misdemeanor. Moreover, while bail is available in misdemeanor cases, it requires a court order for crimes. Therefore, prisons are over crowded with an ever increasing number of crime suspects who may have committed a misdemeanor and who are held without bail.

In addition, investigations performed by the police often provide the only evidence that will ever be available to the court at trial because prosecutors do not inspect the scene of the crime and do not interrogate witnesses for the most part. Investigations carried out by the police may lack adequate handling of evidence, may not be sufficiently detailed and may even completely overlook crucial and decisive elements of the case. In other instances, the police has performed indiscriminate group arrests (*redadas*) where no case files are ever open for the persons arrested, much less preliminary investigations ever performed. These detainees, known as *presos especiales* and whose number is difficult to assess, constitute a major problem because officially, they are not part of the system.

Prisons are administered and operated by the national police since there is no prison police in the Dominican Republic. Prisons are not prepared to receive the ever increasing prison population and to provide decent living conditions to detainees. Juvenile delinquents are mixed with adults, and someone convicted for robbery is in the same facility as someone sentenced to jail for murder or a drug-related crime. There are no vehicles to transport detainees to court, which means that some cases cannot be tried because the detainee cannot reach the court room. Moreover, writs of *habeas corpus* decided in favor of detainees have not been respected by the police operating prisons; this refers to the problem of *desacatados*, or people who the court has ordered a release order but who are still held in prison.

3. Alternative Mechanisms for Dispute Resolution

Arbitration and conciliation are mechanisms available in the Dominican Republic for the resolution of commercial disputes outside the court system. Of the two, arbitration seems more important although it has only been used in a dozen of cases since it was established by Law 50 of 1987.

The law gave the Chambers of Commerce the authority to carry-out arbitration procedures for commercial disputes between their members. It is therefore a completely private-sector mechanism which runs parallel to the court system. Each chamber of commerce is responsible for issuing its own rules and arbitration administrative procedures. Until now, only the Chambers of Santo Domingo and Santiago have actually drafted a *reglamento de arbitraje* and have applied it in the resolution of commercial cases. To the present, only 12 commercial cases have been successfully resolved by arbitration in the Santo Domingo Chamber of Commerce.

The team reviewed Law 50 of 1987 and the *Reglamento* issued by the Chamber of Commerce of Santo Domingo. These provide, on the whole, an adequate framework for arbitration. Among their most positive features is the fact that decisions reached by the arbitrators in a case, or arbitral awards, can be executed by the winning party without requiring an execution order from a court.

Typically, countries with a civil law tradition require arbitration awards to be recognized by a court before they can be executed against a losing party. Moreover, courts in some countries are allowed to review the arbitral decision before ordering the execution of the award, creating delays and uncertainty in the procedure and therefore defeating the very purpose for which arbitration was presumably used. In the Dominican Republic, these potential drawbacks are technically resolved by the law which makes arbitral awards executable without a court order.

Another positive aspect of the rules of the Chamber of Commerce of Santo Domingo is that arbitration procedures are left fairly flexible and made to eliminate time-consuming steps present in judicial procedure. Arbitrators are required to honor the principles of equal treatment of the parties and due process; beyond that, they are free to create their own rules of procedure.

Despite these advantages, arbitration as currently available in the Dominican Republic presents two major drawbacks that partially explain why it has been so little used by businesspeople. First, there have been some questions about the validity and binding effect of an arbitration clause incorporated in commercial contracts. Some lawyers argue that even if two parties sign a contract containing a provision whereby any future dispute would be submitted to arbitration, when the dispute actually arises, nothing legally prevents one of the parties from initiating a court action. This, they say, is because no agreement between the parties can ever eliminate the recourse that every citizen has to have his/her claim heard in an official or state court.^e

The second major drawback of arbitration refers to the binding effect of the arbitral award. Even though arbitral awards are self-executing, that is, do not require a court order to be enforceable, some argue they do not constitute a final resolution of the case. In fact, under this line of thought, even after an arbitration procedure has been commenced or after the arbitral award has been granted, either party has the right to bring the same claim to court. Again, the rationale for this interpretation is that no agreement between the parties can modify a basic right of every citizen to have recourse to the judicial system.

Other problems deal with the administration itself of the arbitration procedures by the chambers of commerce. Arbitration is handled at the Chamber of Commerce of Santo Domingo by a *Consejo de Conciliación y Arbitraje* (CCA) composed of members designated by the Board of Directors of the Chamber. In addition, there is a *Bufete Directivo del Consejo de Conciliación y Arbitraje* and a Secretary to the *Bufete*. Neither the CCA nor the *Bufete* are permanent bodies. Of the two, the *Bufete* has a more operative function, acting as a sort of board of directors in charge of screening those cases submitted to the Chamber for arbitration to determine whether or not arbitration is legally available as per the contract agreed by the parties. The *Bufete* is also responsible for the final selection of the arbitrators.

The Secretary of the *Bufete* is the head of the Chamber's Legal Department and is the only full-time staff member of the Chamber working on arbitration. However, having many other responsibilities within the Chamber, the current Secretary can only devote less than one third of her time to activities relating to arbitration. She is nonetheless responsible for all the administrative procedures and arrangements related to each arbitration case, including obtaining documentary evidence and making sure that information is properly made available to arbitrators and to the parties. Administrative support from the Chamber is clearly very thin and can become a major constraint to a wider use of arbitration for the solution of commercial disputes.

4. Lack of resources to operate an efficient judicial system and lack of experience to manage them.

The budgetary limitations to which the Judicial sector has been traditionally subject to in the Dominican Republic are suffocating the institution and will thwart any attempt at streamlining legal proceedings and curbing corruption.

Judges and court personnel need to be adequately paid in order to eliminate the need to resort to other activities or to corruption to make ends meet. Judges and magistrates have no system of minimum benefits: no social security, no health insurance, no pension fund. The Civil Service Law (Ley de Servicio Civil y Carrera Administrativa of 1991) which is being "gradually" implemented in the public sector, specifically excludes judges and magistrates. Occasionally the Supreme Court has granted scattered benefits to judges (health insurance), but by no means can this be considered a suitable system of social benefits.

In most Latin American countries, parties to a contract can only waive an arbitration clause by mutual consent. Therefore, courts do not have jurisdiction over disputes submitted by only one party when there is a valid arbitration provision in the contract.

Courts need to have basic supplies and equipment in order to be able to function. Currently lawyers have to provide the paper where judgements will be issued. Criminal courts cannot preserve the secrecy of criminal investigations because there are not enough file cabinets, and evidence gathered for most cases is limited to documentary evidence because *jueces de instrucción* have no means of transportation to go to the scene of the crime.

It is critical that the Judiciary be fully funded through a significantly larger appropriation than the one currently assigned to it by the government. With the 1994 constitutional amendment the Judicial Branch was granted administrative independence and budgetary autonomy. However, in order to be fully operational, the constitutional provision requires passage of implementing legislation.

In 1995 the "Oficina Nacional de Administración de Personal" (ONAP) prepared the text of a bill regulating the administration of the Judiciary's budget. It assigned 6% of the national budget to the Judicial Branch (currently it receives between 0.7% - 0.9%, subject to the whim of the Executive). However, the Supreme Court has not yet submitted the bill to Congress even though it has constitutional authority to do so.

It is equally critical that the Judiciary's budget be adequately administered. This is an area where the Judicial Branch has little relevant experience. A major effort will be required to assure that the Judicial Branch is capable of developing plans that establish priorities and lines of action so that funds go to where they are most needed.

5. Obsolete laws and cumbersome procedures which slow resolution of conflicts and lend themselves to corruption

The Dominican legal system copied 19th century French law. Court proceedings were held in French until laws were translated into Spanish in 1880. The translation did not adapt French laws to the Dominican context, and as a result, inconsistencies between the letter of the law and its application remain.

The Dominican legal system has neither evolved in an internally consistent manner, nor has it kept pace with the modernization of French laws. As a consequence, it is replete with obsolete and inapplicable provisions, cumbersome procedures and inflexible mechanisms that do not facilitate internal renewal. A good example of these problems is found in the criminal process. From the moment a person is detained for an alleged crime until the person is tried, the process goes through four different stages: (i) detention and preliminary investigation, (ii) accusation, (iii) investigation and (iv) trial.

Detentions are usually handled by the police. The police will open the case with a preliminary investigation which is then sent to the *procurador*. The *procurador* decides whether to pursue the case in justice or to close it and release the detainee. If the evidence is sufficiently strong, the *procurador* transmits the file to the *juez de instrucción* who is in charge of completing the investigation. This judge may also determine whether to release the detainee for lack of evidence or send the case to the appropriate tribunal for trial.

Each of the four steps of the process described above calls for the participation of a different authority. The first authority is the *policía nacional*, which is under the supervision of the *Procurador General de la República* when acting as *policía judicial*, as in the case explained above, but which is above all part of the military. Then comes the *procurador* who belongs to the *Ministerio Público* under the supervision of the attorney general. Following the prosecutor is a *juez de instrucción*, who is part of the judiciary headed by the Supreme Court. Finally, the case reaches the trial judge or tribunal, different from the *juez de instrucción*, who is also part of the judiciary.

The more steps and individuals involved in a judicial process, the more the opportunities for bribes and corruption. The process described above is illustrative. Currently, payment of "extra-judicial" fees is a well known and widespread practice in order to move a case from one stage to the following. Judgements are "bought" not only to obtain a favorable ruling, but often just to obtain a ruling.

The intricacies and tediousness of the procedures negatively affect timely resolution of cases. In criminal proceedings for instance, a *juez de instrucción* may decide to release a detainee because of lack of evidence. This decision however, is subject to appeal by the prosecutor, who made the accusation in the first place. As a consequence of the appeal, the detainee cannot be released until a higher court resolves the issue. Considering how slow the courts can be, it can take years before such an appeal is ever decided.

The right of the *procurador* to appeal a decision is based on the principle that as representatives of society, prosecutors must be given the opportunity to question any decision made by the *juez de instrucción* that may affect society as a whole. This system, which under US law may be even considered double jeopardy (trying a person twice on the same grounds), complicates and slows the process without adding any significant value to the resolution of the case.

If the *juez de instrucción* responsible for completing the investigation determines that a detainee should be released and the case closed, it does so presumably because the preliminary evidence on which the *procurador* originally based his/her decision to accuse the suspect was not enough to bring the case to trial and no other significant evidence could be found during the investigation phase. However, the fact that under the law both the prosecutor's and the *juez de instrucción* decisions are based on their "firm conviction" (*íntima convicción*) about the merits of the case and not on the legal strength of the evidence gathered, causes differences of opinion between *jueces de instrucción* and prosecutors that end up in interminable appeals that can only delay resolution of the case.

IV. THE JUSTICE SECTOR

A. Elements of Support and Opposition to Reform

Throughout the field investigation process of this study, it was abundantly clear that there is both a strongly felt need and demand for justice sector reform in the Dominican Republic. There are a very large number of stakeholders affected by the current state of the system, and a large number of actors who in one way or another are actively trying to do something about the problem.

There is clearly a need for reforms in the Justice system: it is estimated that some 87% of the prisoners currently held in the prison system are under preventive detention; the Supreme Court has not published its decisions in nearly five years; the court system is authorized less than one percent of the national budget but in fact receives only about 60% of that authorized; backlog is so severe in some courts that less than one third of the cases submitted during the year are actually processed; there are increasing complaints about the alarming number of lawyers entering the profession and the quality of education received; the legal profession's associations are poorly thought of and in decline; and the system itself is considered extremely corrupt with illicit behavior found in all sectors.

High level actors in the justice system were extremely forthcoming with the consultant team and were highly critical of the state of the system. The following is only a brief sample of statements expressing concern and alarm about the state of justice: "Aquí, no hay nada!"; "El sistema de justicia es un desastre!"; "Mejor un centímetro de juez que un metro de derecho"; "El poder judicial es un poder delincuencial"; "El sistema se ha vuelto un embudo"; "La justicia es lenta, mala, y cara"; "El sistema de justicia tiene 200 años de atraso"; "La mayoría de los abogados son envenenables"; "Aquí el sinvergüenza y ladrón es una persona honorable, y la persona honorable es un pendejo"; "La corrupción es una institución"; "El sistema de justicia es la institución mas corrompida de la vida dominicana."^f

These statements are quoted directly and left in Spanish so as to express the passion with which they were stated. Translated they say: "Here, there is nothing!"; "The justice system is a disaster!"; "An inch of a judge is better than a yard of justice"; "Judicial power is a delinquent

From the foregoing it can be seen that there is both real concern and there is real demand. However, what is less clear is how well articulated and mobilized is that demand? And, how important is the need and demand for justice system reform for the various concerned groups when measured against other priorities? To change the current system to something more efficient will require commitment and resources from stakeholders -- in an amount at least equivalent or greater than that already possessed by those benefiting from the system as currently constituted. The stakeholder analysis (see Justice Sector Stakeholder Tables, Appendix One) and the justice sector political mapping exercises undertaken by the team are designed to help reveal support and opposition to reform as well as to analyze the capabilities of different groups to either contribute to reform of the system or to its maintenance.

A very brief review of both the Justice Sector Stakeholder Tables and the Justice Sector political Map reveal a very significant number of groups in favor of reform. However, the same Tables and Map also reveal a considerable number of actors who benefit from the status quo.

B. Support and Opposition for Justice Reform under Balaguer:⁹

Social Sector Support: Although many of those interviewed in favor of reform claim that support is quite widespread throughout society, it is not clear how easily that support could be mobilized. The Justice Sector Micro-political Map (Figure 3) shows that among the **social sectors**, there was support for reform (defined under Balaguer as the opposition sectors) from workers and campesinos, as well as small farmers negatively affected by the reportedly highly corrupt state of the land tenancy courts. However, such groups are quite amorphous: while they were mobilized during the election process in favor of one candidate or another (and perhaps in favor of or against particular issues), it was not at all clear to the consultant team that justice reform was actually perceived by such sectors as so crucial as to make a difference in who they might vote for. The business sector (including those not represented by business associations) both benefits and is hurt by the current system, but at the same time they are also affected by a large range of other issues as well. It is thus improbable that their votes in the election were actually much affected by their perceptions of the justice system.

Political Parties Sector: Among the political parties, there was support for justice sector reform. However, the real depth of that support remains difficult to assess. The official statements of the political parties as expressed in their electoral platforms put justice reform as a "priority" (see CONEP's Cuadro Comparativo de las prioridades de las principales candidatos presidenciales y la Agenda Empresarial). However, it was less clear that the parties actually saw their priorities in the same way as the CONEP. Moreover, there are significant differences in the manner in which each party addressed reform -- the official party (PRSC) had a much less committal stance than either PRD or PRD. The party closest to the CONEP agenda for reform was PRD, but that may be a reflection of the fact that CONEP's agenda was essentially prepared by FINJUS and because the head of FINJUS, Milton Ray Guevara, is a leading activist within the PRD.

Among the political party delegations in Congress there has been interest in reform of the justice system - at least as expressed by the fact that there were several legislative projects submitted to Congress for consideration. The most important of these was the proposal for the conformation of the Consejo Nacional de Magistratura (CNM) established by the 1994 Constitutional reforms. However, while all parties proclaimed interest in moving the proposal forward in order to make the CNM operational, in two years the

power"; "Justice is slow, expensive, and bad"; "The justice system is 200 years behind"; "The majority of lawyers are poisonable"; "Here thieves and the shameless are honorable persons, and the honorable person is a fool"; and the "The justice system is the most corrupt institution in the Dominican Republic".

Since the analysis of the Balaguer period was carried out in April, the present tense will be maintained in reference to the April, 1996, Justice Sector Micro-political Map.

Senate had not come to an agreement over which persons should hold the post reserved for the Senate opposition party member. The PRD insisted on the candidacy of Milagros Ortiz Bosch, but the PRSC refused, resulting in a stalemate. When the PRSC relented, the PRD then decided that it would be better to wait until the elections passed to renew efforts on conformation of the CNM.

Given that the Senate will not change with the Presidential election, the capacity for bargaining on issues of reform becomes fundamental, and will provide a test of real priorities of the next government. If the government party is the PRD or the PLD (both of which see reform as a "high" priority) it is likely that serious concessions will need to be made to gain the cooperation of the Senate PRSC delegation. If other policy areas become most crucial, the serious concession could conceivably be justice reform.

Pressure Group Sector: It is in the pressure group sector that one finds the most direct and articulated support for justice sector reform -- but it is also here that one finds the strongest vested interests in the maintenance of the status quo. While the number of groups supporting justice reform in one respect or another far outnumber those with apparent interest in maintaining the system, the latter are better mobilized, have better resources, and perhaps most importantly, are some of the primary actors in the justice system. Groups supporting change mostly have other interests and may or may not be either heavily or directly invested in the system, and thus without strong incentives or motivation for change.

Within the Core Support sector lie the most powerful actors in the justice sector -- the Judges of the different levels of courts, the *Procuradores de la corte*, *Procuradores fiscales*, the employees of the judicial system, and the *Policia Nacional*. While it was reported that many individuals within the justice system favor reform (the Procurador General de la Republica was prominently mentioned), it was the opinion of all the respondents in the study that most are not. Although these groups are certainly vulnerable as the demand for reform grows, and in the case of full reform they will be the largest losers (since many if not most will likely lose their jobs, those that don't will benefit from improved salaries, conditions, and benefits.) However, they also have powerful resources available to them to impede action toward reform. At this point, these groups have possession of the structure and are the system. And according to all respondents that system (as inefficient and as corrupt as it may be) is highly institutionalized. At this point, the resistance to change from within these core groups is very strong. Those most enmeshed in corrupt practices, have correspondents who have benefited from favorable decisions produced by those corrupt practices -- correspondents who most certainly could not want to be revealed, and who will support resistance to change.

Further bolstering support for the system (opposition to reform) are the legal professional associations. Both the Asociación Dominicana de Abogados (ADOMA) and the Colegio de Abogados are partly supportive of reform but mainly seem to support the status quo. Although these associations are supposed to act as overseers of the legal profession (and in fact do so in other countries), they have been passive regarding the need for reform. There have been recent attempts to activate the Colegio's disciplinary committee but the efforts have had little or no impact.

Some of the Colegio's chapter associations (seccionales), on the other hand, have been supportive and active in seeking reform of the profession. The Santo Domingo and Santiago chapters have been particularly out front in supporting reform both of the justice system as well the legal profession. Much less can be said about ADOMA. Virtually every respondent felt that ADOMA has been wholly discredited; and when asked if the ADOMA could be revived or rehabilitated, most were skeptical. Since ADOMA is the oldest and largest of the associations, its lack of interest in change or reform of the system presents a challenge to potential reform movements.

Interestingly, even though all respondents acknowledged the sad state of the legal professional associations, almost none seemed to think that one could or even should start the reform process there. And virtually none of them thought that they should put their own efforts there.

Opposition to the present system, or groups in favor of reform were actually fairly numerous. However, there were differences in the way that the need for reform was perceived. Part of the interest in reform was aimed specifically at the need for changes in the civil code and procedure and from those negatively affected by the present system insofar as it raises the cost of doing business -- and which provokes lack of confidence in contracts and efficient, equitable solution of contract disputes. Several such groups can be found in the opposition sectors on the right hand side of the Justice Sector Map (Figure 3). These include business associations such as CONEP, JAD, AIRD, the Asociacion de Industriales de Herrera, and ANJE. All publicly came out in favor of reform in some measure or another. The most outspoken and participative have been CONEP, JAD, and ANJE. CONEP President, Jose Manuel Paliza has been the most outspoken and even offered to implement a model administrative reform in one of the courts.^h CONEP also included justice reform as one of its priorities in its "Agenda Empresarial". However, the group has been limited in its militancy by the fact that it is an umbrella group of associations and is obliged to respect the interests of those groups. At the same time, though it represents powerful organizations, CONEP itself has relatively few economic resources to finance studies, publicity campaigns, or lobbying. It has had some significant success in attracting donor support for such activities, but these are tied to specific donor interests.

ANJE, which held a successful seminar on Justice reform (attended by 170) in April, does not have some of the limits of CONEP, since its membership is individual rather than institutional. However, it is made up of young managers and entrepreneurs, and lacks both the prestige and "poder de convocatoria" of CONEP and its President. JAD, one of the country's most powerful sector associations, has taken a specific interest in land tenancy and titling and is, through donor funding, sponsoring a land titling program. While a large and powerful association, it also represents interests who are closely associated with the present government. But it is also argued that with problems in the land tenancy courts, interest in that JAD's interest justice reform has also increased. The AIRD's President has been outspoken on a number of reform issues including justice reform, but his actions have been limited by the fact that many of AIRD's members benefit from the existence of favorable incentives to the industrial sector. It was argued by some respondents that his views, while tolerated by the organization, are not shared by many of the members. While groups on the right do manifest opposition to the system their resources for more vocal and decisive opposition appear limited by the nature of their memberships.

In contrast to groups on the right, many, if not most, of those on the left are opposed because of what they see as major abuses in criminal procedure, prosecution, and the prisons. Among these are the Grupo de Acción por la Democracia (GAD), Human rights groups, the Conferencia Episcopal and the parroquias, FINJUS, and to a large extent, the Universities as well. While most of these are intensely opposed to the present system, they differ significantly in their respective levels of resources, the approach taken, and their agendas of priorities. While there are numerous groups, these differences until now have caused the movement to appear rather fragmented.

The Universities view the problem of change as long-term one that can be brought about through improvement of curricula, more standard criteria for granting law degrees, and upgrading the abilities of practicing lawyers through continuing education. Human rights groups focus on problems of detainees and on the need for revisions in the penal code to reduce and eliminate preventive detentions, trials without adequate legal defense. Groups such as the Centro de Investigacion para la Accion Feminina (CIPAF) concentrate on reform as it applies to women. For instance, they have been intensely involved in reforming certain elements of the legal code that discriminate against women. Labor unions, while on the left with other groups, are more particularly concerned with the labor code and the labor courts. Other groups, such as the Movimiento de Jueces Cibaños and the Colegio de Abogados de Santiago, are more interested

While CONEP offered to implement a model administrative reform it made the offer contingent on obtaining financing from some undetermined source. It is also not clear how it would do this, nor if it had actually contemplated the political/administrative problems that would be involved in such a proposal.

in administrative reform of the courts. GAD, while keen on the problem of justice sector reform has numerous other priorities. Indeed, justice reform almost appeared to be buried in the list of other reforms sought by the group published by the group on March 23 of this year.

The levels of resources to mobilize demands among these groups varies but is mostly rather low. Groups such as GAD, CIPAF, some human rights groups, with access to international donors fare better than others, but none approach the level of economic resources presumably available to groups on the right hand side of the map. Most of these groups also lack the status, prestige, and access characteristic of many of those on the right as well. In the case of the UASD, economic problems, deteriorating prestige, and competition from burgeoning private universities, has considerably weakened its capacity for action.

The one group that has justice reform as its principal priority and which takes a multi-pronged approach to the problem is FINJUS. In contrast to other groups, FINJUS was created as an institution dedicated to the pursuit of justice reform, and maintains the view that a holistic, rather than a specific interest-driven, approach is needed to provide the cure required. However, FINJUS, while determined and blessed with an Executive Director, Milton Ray Guevara, completely and zealously identified with the need for reform, is quite small and with relatively few resources. Because FINJUS is extremely closely identified with Guevara, and because he is closely identified with the PRD, some respondents in this study claimed that FINJUS has become "politicized" and has lost some of its potential effectiveness. However, some of these same respondents also argued that this liability would disappear after the elections. On the map, FINJUS appears in bold print, mostly to illustrate its uniqueness within the sector and much less to signify its political influence. At this point, FINJUS' primary resources are the level of information that it possesses on the sector and its ideas for improvement of the system as well as the status that it has achieved through Guevara's efforts. While its Board of Directors is very distinguished, the potential resource that it represents is mostly underutilized.

C. The Political Environment for Justice Sector Reform under Fernandez:

Since the election of President Leonel Fernandez, the context for Justice Sector reform has changed dramatically. Under Balaguer, the primary decision-making arenas and mechanisms for justice sector reform were entirely under the control of actors supporting the status quo opposed to justice reform. And while there were a considerable number of groups supporting change, they were outside the decisional arenas, fragmented, and usually possessed differing agendas of issues and priorities. Groups within the critical core support sectors were either indifferent to issues of justice reform or outright opposed. If one compares the Justice Sector political map of April, 1996, with the current, a first glance reveals a vastly improved environment for reform. Nevertheless, and despite very considerable improvements and real opportunities for change, the political environment still presents numerous threats and constraints.

Support for Justice Reform:

Justice reform finds its main support in the External Sectors and among Pressure Groups. For the most part, and even though highlighted in most of the parties' electoral campaign platforms, justice reform was not a major electoral issue (ie., it was not a major priority of voters) -- and thus did not capture the attention of groups within the Social Sectors area. Even among businessmen, who have felt and borne the increasingly greater costs of an inefficient and ineffective justice system, it is not clear that justice reform issued influenced their votes.

Among Pressure Groups, there have been major changes in the support sectors compared to the scenario in April. First, now governmental mechanisms such as the Attorney General (*Procurador General*) and the Chief Prosecuting Attorney (*Procurador Fiscal*) are major advocates of justice reform, particularly in the area of the Ministerio Público. Three other groups appear in the Core Support area, the *Consejo Nacional de la Magistratura*, the *Comisionada para la Reforma y Modernización de la Justicia*, and the *Equipo Técnico*, which lends technical support to the *Comisionada*. These groups are new and, at least at the time of the Team's last visit, had yet to fully establish themselves as powerful decision-makers or influential

actors in the reform process. All are still in the process of formation and relatively little is known or to be known about them at this stage. The *Comisionada* may become a sub-committee of the *Comisión de Modernización* and thus lose some of its current "prominence". But how much or how little is not yet known. The CNM's role is circumscribed to the selection of judges for the Supreme Court, but its actions in fulfilling that role may well set the tone for the rest of the reform process. While many observers argue that the current composition of the CNM is highly political, and that the composition of the new Supreme Court will thus be highly political, it remains to be seen how it will play out its role.

Interestingly, there are no civil society Pressure Group actors in the Core Support sector. Instead almost all civil society actors are found either in Ideological Support or in areas bordering on Legal Opposition, an area that by definition is not determinant in policy decision-making. However, most actors interested in justice reform are encouraged by and supportive of the initial actions taken by the Fernandez government. It is difficult to say whether the government is excluding civil society from a prominent role or whether it simply has not had time to incorporate civil society into its decision-making processes -- there seems to be evidence supporting both arguments. There has been some early tension between the head of FINJUS (civil society's most prominent justice reform actor), Milton Ray Guevara, and the new Secretario del Estado head of the *Equipo Técnico*, Franklin Almeyda, mostly derived from their roles in opposing parties during the electoral campaign. Another indication may also be in the creation of a high-level, public-private *Comisionada Nacional para la Reforma y Modernización de la Justicia*. The creation of such a *Comisión* to lead the justice reform process was one of the key ideas developed in a report developed by FINJUS/IDB on the state of the justice sector. Whether a deliberate move to co-opt the idea or not, Almeyda has moved ahead with the creation of the *Comisionada* without, apparently, the institutional participation of FINJUS.

At the same time, other groups, particularly from the right have yet to throw their unequivocal support toward the *Comisionada*. Whether it is because of skepticism or simply because the government has yet to define a clear position or strategy, however, is not clear. Although there are numerous groups in the ideological support area, there are few if any links between them. Even when interests of these groups coincide, such as the common interest in criminal justice reform on the part of CEDAIL, CDDH, or Acción Jurídica, or common interests in commercial or civil procedure among ANA, AAE, CONEP, ANJE, and the Chamber of Commerce, there is rarely any coalescing or active linking of these groups.

A major opportunity for the proponents of justice reform is the presence of numerous external actors in the Support sectors. The IDB, USAID, the European Community, and the UNDP are all interested in supporting one or another element of justice reform in the Dominican Republic. The resources that can be provided by these actors could help the Fernandez government in establishing a strong foothold in justice reform. It is also likely that the resources provided by these institutions will be critical not only in defining the roles and influence of the *Comisionada* and the *Equipo Técnico*, but also insuring that some proposed changes can be implemented expeditiously (the "model courts" program, land-titling programs, improved resources for the *Ministerio Público*, and the like.) While some resources can be obtained from external actors fairly quickly, the more significant projects are still only in the identification stage. Thus, important disbursements from the major donors or lenders should not be expected for at least 6-12 months (at a minimum.)

Opposition to Justice Reform:

Within Congress, there appears to be significant opposition, but not specifically to justice reform *per se*. It was argued by key representatives in Congress that its principal priority is passage of constitutional reforms -- and those reforms take precedence over proposals and bills already presented. There is, however, opposition to some elements of legislation already under consideration (ie., the *reglamento interno* for the *Consejo Nacional de la Magistratura*), and some pressure to maintain the role of the *Senado* in the selection of Judges (which had been eliminated in the Constitutional Reforms of 1994). While the judicial committees in both houses appear to support the justice reform initiatives pending, it cannot be stated with

certainty that they will not be opposed once the measures reach the floor -- simply because of the overall policy of opposition to the current government within Congress.

There are several organizations which straddle the line between ideological support and legal opposition on both the left and the right of the Micro-political Map (Figure 4). The Supreme Court is not precisely in opposition, but continues to represent the forces of the status quo of the previous Balaguer regime, and will remain until new Magistrates can be named by the CNM. Its failure to discipline corrupt judges and apparent disinterest in making the courts more efficient, however, continue to present serious obstacles to reform efforts. The Court recently blocked Fernandez' appointment of two candidates to the land registry bureau, but beyond such actions, it will likely be unable to actively mobilize in opposition to the reform movement.

Court employees represent another potential source of opposition. It is argued by several observers that these employees are key elements in corruption process and often are the channels through which payoffs are made to judges or prosecutors. These employees have also become accustomed, in many circumstances, to charging fees for regular services to be provided free by the court or for expediting cases. While it seems doubtful that judicial employees can or will mobilize themselves to oppose reform, actions can be carried out on an individual level and in areas which will impede the reform process and which tend to perpetuate current corrupt practices.

It should also be noted that there are and will continue to be lawyers and others who will undermine reform measures as long as such practices serve their interests and there are no realistic or enforced discipline or sanctions for such behavior. While difficult to place on the Micro-political Map, this sort of "hidden" opposition to serious reform will perhaps be the most difficult to overcome. The Asociación Dominicana de Abogados and the Colegio de Abogados currently do extremely little to discipline and sanction lawyers for corrupt or unethical practices. While these groups do not actively oppose justice reform, their lack of interest in disciplining corrupt lawyers does little to support the effort.

On the left side of the Micro-political Map, there are several groups bordering on opposition. Many of these groups (Acción Jurídica, the Comité Dominicana de Derechos Humanos, CIPAF, CENSEL, and CEDAIL) are chiefly concerned with the problem of criminal and penal reform, severe congestion and inhuman conditions in the prisons, and the deterioration of the Ministerio Público. Should measures and steps not be taken in improving conditions in these areas, these groups will become more vocally opposed to the government's policies or lack thereof. However, it should also be noted that most of these groups have little or no interaction with each other, and the level of resources possessed by any given group is minimal. As such none is capable of wielding much influence. Along the same line, groups such as the major labor unions and labor lawyers are much interested in reform of both the labor court and the labor tribunals. But again, neither has the resources necessary to inject themselves more directly into the policy decision-making process. However, like the other groups on the border, should government policy not attend to their demands they will become more vocally opposition.

D. Findings from the Justice Sector Map

Several findings emerged from the stakeholder analysis and the mapping exercises for the justice sector. Most speak to conditions that whatever movement or actions toward reform will encounter.

- There was a very strong belief on the part of the study's respondents that reform of the justice system depends on "*voluntad política*" or "*vocación política*". Virtually all respondents argued that initiation of the reform process needed to start at the center, and that the executive should be responsible for leading reform. Even when asked directly about creation of demand, nearly all continued to argue the need for the center figure in starting reform. The prevalence of this attitude may account for why there are presently no strong vehicles for reform.

- The problem of justice reform is enormous. When combined with a strong systemic inertia, the challenge of reform is indeed daunting. There are several elements that illustrate the enormity of the problem:
 - Preventive detentions: it is reported that some 87% of those currently in prison are under preventive detention awaiting processing. Some of these have been in prison upwards of ten years.
 - Case backlog: there is no accurate reporting on the extent of backlog, but in one "Cámara" it was reported that the backlog was some 7,000 cases while the number of cases processed per year was just slightly more than a third of that number.ⁱ
 - Deterioration of capital assets: because of shortfalls in budget allocations, simple maintenance has been deferred, and failed or broken equipment has not replaced.
 - Absence of resources: although the justice system is supposed to receive some .7 to .9% of the budget it actually receives only about 60% of that figure. This presents ironies such as brand new Court buildings with no equipment.
 - Low level of training: one consistent comment by respondents was the low level of capability of many of the judges, their assistants, and clerical staff. One of the main intents of the Judiciary School proposal is to remedy that situation.
- There is an absence of any serious pressure for change from the organized legal profession. Both the Colegio de Abogados and the Asociación Dominicana de Abogados are considered by many to be mostly discredited, both through poor management and allegations of politicization. Although the Colegio has disciplinary powers, it is used only sporadically and rarely with any serious effect. While all of the study's respondents recognize the gravity of problems confronting the justice sector, most do not see the organized legal profession as the likely or realistic vehicle for reform. Indeed, there even seems to be some distaste about working with either organization on the part of many lawyers, especially among the more prominent law firms.
- Partisan identification has caused the credibility of some pressure groups for justice sector reform to become eroded and has reduced their influence. One of the key groups, FINJUS, is perceived as close to the PRD and indeed, FINJUS' Executive Director is a prominent PRD activist. Although partisan identification certainly was a factor around election time, it was also argued that once the elections were passed, then partisan affiliation would become less salient. However, the problems have lingered.
- Some of the groups favoring justice sector reform are small, or even "one-person" groups. They tend to be relatively low in resources or have relatively low capacity to mobilize resources toward justice reform actions. Even some of those groups that have ample numbers of members rely on a very small group of highly committed cadre for the bulk of its actions. In order to become more effective these groups will need to deepen their leadership and membership.
- The justice reform movement gives the appearance of being split into two major camps -- proponents of judiciary structure reform and proponents of criminal reform. While all agree about the need for reform, there are differences regarding substantive emphasis and tactics. It is relatively

The number cited here appears to be fairly typical. Tirsá Rivera (in her presentation for the FINJUS National Forum in September, pp. 9-11) cites a range of backlog problems, ranging from more than 90% of those received in a year to roughly 60%. Thus this particular court appears to be slightly better than average.

rare that the groups from within the same camp interact, among those from different camps it is even more rare. At this point there has been little effort to pull groups together. One exception to this is FINJUS which has worked with groups on both sides. However, these efforts have mostly been related to specific questions -- such as FINJUS' participation with CONEP on the Agenda Empresarial.

E. Constraints for Justice Reform:

- Almost all groups supportive of justice reform are currently in the ideological support sector of the justice reform map (Figure 4). By definition, however, these groups are not determinant in Justice reform decision-making. Those groups within the core support area are all government actors.

It should be clearly noted that the actors within the core support area are single individuals (eg. the Prosecutor for the Distrito Nacional), relatively small groups (such as the Equipo Técnico), or temporary groups (such as the CNM).

- Principal decision makers within the apoyo central sector are the CNM and (perhaps) the *Comisionada para la Reforma y Modernización de la Justicia*. Little is yet known of these groups (both are just formed) and have not established clear lines as yet. Current opinion seems to be mixed about their potential efficacy.

The decision-making process for justice reform remains quite fluid.

- The President (assuming he is genuinely interested and considers justice reform a first priority) lacks the votes in Congress to assure passage of a major reform package.
- Those groups representing the judicial sector machinery straddle the line between support and opposition for reform and do not yet represent a mobilized force for or against reform.
- Civil Society groups (as in the Balaguer era), are by and large excluded from important influence or decisional roles. Most of the core actors in justice sector reform are in the Public Sector. The *Comisiónada* does include representation of civil society, but not in a majority role.
- There is no strong consensus in civil society on the types of reform being urged. Fragmentation of interests and efforts is still the *tónica* of justice sector reform. There are well over two dozen groups identified but virtually no collaborative activities.

There is strong, and articulated support for reform of the **judiciary**, but there does not seem to be a strong political consensus about how structural reform ought to proceed. There is little support for other, very important areas of justice reform.

- Criminal justice reform and reform of the Ministerio Público have not received the same level of attention as judiciary reform, despite general acknowledgment of the grave crisis confronting criminal justice administration.
- No coalition to advance even the proposals on the table has yet to emerge. Support remains fragmented and disparate.

The role of FINJUS (earlier thought by many to be the primary leader of reform) appears to be weaker and more marginal than in April - May, 1996.

- It is not clear that even if certain laws are passed there are sufficient resources available or accessible for their implementation.

The cost of reforms will be quite high and require significant re-ordering of budget priorities (assuming there is not an extremely large increase in total budget expenditures). If the court system is to receive 6% of the budget as proposed in *Ley de Admon. Presupuestaria*, it implies nearly a tenfold increase in actual expenditures.

There will likely be strong competition from other agencies to maintain their current or improved levels of budget authorization and/or expenditures.

- The Congress represents, potentially, a significant barrier to the structural, judiciary reform most clearly articulated by proponents of justice reform (viz., FINJUS proposals, pending legislation).

Courts, in the past, have been an important source of political patronage for the Senate. There does not appear to be any strong incentive for the Congress to reverse its position.

V. EFFORTS IN JUSTICE REFORM

A. General Priorities for Reform:

Most of the efforts in justice reform on the part of civil society or government appear to be aimed at two main areas: institutional reform of the **judiciary**, and **criminal or penal reform**. These two areas are not mutually exclusive -- ie., reforms in the judiciary will positively impact criminal justice -- but judiciary reform tends to emphasize civil and commercial justice over criminal. While it is true that nearly every group in civil society or government argues the need for comprehensive overhaul of the justice sector, most groups tend to emphasize one area or another.

Judiciary Reform: Judiciary reform is clearly the most articulated and is the area supported by the most prominent civil society and government actors. The recent Forum sponsored by FINJUS, the recent IDB diagnostic of the justice sector, the campaign platforms of the candidates in the recent presidential elections, and legislation submitted to Congress and pending passage, have all been primarily directed at the need and proposals for **judiciary** reform. While most of these do not ignore other needed reforms (esp. the IDB report), the focus is clearly on the judiciary as the linchpin of justice reform in the Dominican Republic.

Within the focus of judiciary reform, considerable and perhaps undue weight is given to the CNM and the eventual new Supreme Court as the driving mechanisms for justice reform -- the selection of an "*idoneo*" set of judges for the Supreme Court has become the overarching premise of justice reform. In many cases, it is assumed that if a good set of judges is selected, the rest of the reform process will be virtually automatic. As perhaps can be appreciated from the preceding analysis, that premise appears to be considerably less than automatic. Because of the composition of the CNM (with ex-President Balaguer's forces the most strongly represented, with a minimum of three and perhaps four of seven votes), the selected judges most likely will represent solutions based on political criteria -- rather than solutions based on competence criteria.

The legislative elements necessary to accompany the new Supreme Court (*Ley de Carrera Judicial*, the *Escuela de Magistratura*, and the *Ley de Administración Presupuestaria*) have not yet passed the Congress. At the same time, it was not evident to the consultant team that a lobbying strategy has been developed to assist in moving these "*proyectos*" through the legislative process. But even if these laws passed, the Secretary Almeyda pointed out in an interview that it is unclear where the resources to implement these laws will come from. Reform proponents argue that more than adequate resources are

encompassed in the proposed 6% of the budget to be provided to the Judicial branch¹, but most observers say that level of resources is far from being assured. And, like the other laws proposed, there does not appear to be any serious strategy for lobbying an increase in resources.

Better trained judges --protected by a law of judicial career while being more closely supervised-- would undoubtedly ameliorate the administration of justice in the areas of civil and commercial law; however, some of the most pressing problems of the system, eg. those related to the criminal sphere, will only see minor improvements.

Criminal Reform and the Ministerio Público: While judiciary reform has the greatest visibility, the efforts aimed at criminal reform, prison reform, and restructure or assistance to the *Ministerio Público* are quieter, less articulate, and generally without the resources available to the advocates of judiciary reform. Despite what seems to be a wide consensus that the gravest problems affecting the justice system lie in these areas, there is curiously little active concern for or promotion of these reforms by the more established civil society interest groups. The missing element in current proposals for justice reform is a greater emphasis on criminal justice and more specifically, on key institutions, such as the *Ministerio Público* and the national police which, by being the first to deal with criminal offenses, are those that can make a significant difference in the way justice is administered. Better judges and magistrates alone will not necessarily affect the way the *Ministerio Público* or the national police operate.

The *Ministerio Público* has traditionally been a very weak institution, which does not adequately perform its main responsibilities. It suffers from severe constraints ranging from lack of properly trained human resources and insufficient budgetary appropriations, to overwhelming caseloads in some jurisdictions caused by an inefficient division of the country into too few judicial districts.

The quasi paralysis of the *Ministerio Público* is reflected in the fact that preventive detainees account for more than 87% of the current prison population. Some sporadic efforts are being made in the public sector to improve conditions. The current *Procurador Fiscal del Distrito Nacional* (Santo Domingo), Guillermo Moreno, has organized training courses for his new prosecutors. The courses are held in one of the courtrooms of the *Palacio de Justicia del Distrito Nacional* on weekends, and are taught by Moreno who donates his time to the effort. The courses deal with basic principles of criminal investigation, criminal procedure and civil rights. Expansion of both the scope and frequency of these courses, however, is tightly constrained by the *Fiscalía's* budget limitations.

A greater emphasis on criminal justice means focussing not only on the *Ministerio Público* and the national police, but also on the prison system. While it is widely recognized that conditions are appalling (during the entire stay of the consultant team in Santo Domingo, major areas of the La Victoria prison were under the control of inmates, and disturbances were reported in several other prisons), there are few actions aimed at resolving the problems. Seemingly simple information such as the names of everyone in prison and their current status is generally not known. Here again, *Prosecuting Attorney* Moreno has organized his assistants to go to the major prisons to take a census of the inmates -- again on weekends.

As can be seen on the Justice Sector Map (Figure 4), those supporting criminal and *Ministerio Público* reform, tend to lie on the opposite side of the Map from those supporting judiciary reform, and most of their efforts have yet to attract the attention of the donors. It may well be that the reason is that activities in this area are aimed at releasing prisoners. Their concerns are more for solving the problems of those caught up in the system rather than trying to reform the system itself. There are, nonetheless, some fragmented activities carried out which do aim at broader fixes: Acción Jurídica's publication which explores some of

The 6% mentioned here is for the judiciary. It will have little effect on other key actors such as the Ministerio Público, police, or prisons which are part of the justice system but are under the Executive branch. These organizations will continue to compete for budget resources with other Executive branch organizations.

the current problems encountered by the system; the CDDH's denouncing of certain judges for corrupt practices; and CIPAF's concerns about reform of those aspects of the penal code related to women. But what one fails to see is either some coalescing force or even the development of a nascent strategy for addressing the problems of criminal reform or the *Ministerio Público*.

B. Leadership and Coalition Development:

Civil Society Efforts: The absence of a clear coalition for judiciary reform either in civil society or government, or both, presents a major impediment to advancing the process. While FINJUS is still cited as the premier organization in judicial reform, it does not appear to have adopted a strong leadership role to coalesce forces around its efforts in order to gain more momentum. Perhaps significantly, at the recent FINJUS Forum, there were no representatives from other civil society pressure groups advocating justice reform present on the speakers platform, while members of Congress, the present Judiciary, and the Executive branch were well represented. It was clearly FINJUS' show. Moreover, FINJUS is still viewed as a "one-man-show", very closely identified with Milton Ray Guevara. Further, according to several of those interviewed, FINJUS has become somewhat politically "tainted" because of Guevara's temporary leave of absence during the past election to work for PRD.

The absence of coalitional leadership for judiciary reform is all the more important since several other groups have recently begun to increase their visibility in the debate around judiciary reform. Last April, ANJE held a conference on justice reform which not only was well attended (roughly the same attendance as the FINJUS' Forum) but also appears to have played a part in the reactivation of the Asociación de Abogados Empresariales. CONEP not only included justice reform prominently in their "Agenda Empresarial" but its President, Jose Manuel Paliza, offered to assist with the establishment of a "model court" at the ANJE Conference. It is curious that despite the relative agreement about what needs to be done in the area of judiciary reform, there is no appearance of a larger coalition for reform. Instead, efforts by these other groups appear fragmented and disparate.

On the other side of the map there are similar difficulties in developing coalitional efforts. Each of several groups has activity under way which aim, in a very indirect and fragmentary way, at improving the present state of the system. If there is relatively little communication among actors concerned about judiciary reform, there appears to be virtually none on the side of criminal or Ministerio Público reform.

Government Efforts: On the government side, despite the relative clarity of the electoral platform regarding needs and directions for judicial reform, the government's efforts to date (again note that the government has been in office less than 2 months) appear to lack an overall strategy. The list of "interests" expressed by the government in a list presented to USAID by the *Secretario del Estado para la Reforma de Justicia*, appears to be highly opportunistic, and more represents several "targets of opportunity" rather than a base for a strategy.

The start-up of the government's proposed *Comisionada para la Reforma y Modernización de la Justicia*, will create an ongoing public-private dialogue on issues regarding reform, it is not clear if or how the *Comisionada* will become the leader in the reform process, how it will create greater decisional input from civil society sectors, or what strategy it will pursue in the reform process. Finally, some of the government's activities, especially in the *Comisionada*, without a greater effort at coalescing the activities of civil society with the government's, runs the risk of duplicating activity already under way.

The level of priority that is to be assigned to justice reform by the government never became entirely clear to the consultant team. Fernandez' appointment of Almeyda as the *Secretario del Estado* for justice reform during his inaugural address would seem to indicate high priority. But several observers argued that if the government were really serious about quick reform, then Almeyda is not the person to lead the effort. At the same time, there is an increasingly prominent argument by observers (and even within the government) that there "is no hurry" -- the government's timeline for reform is really two years -- which coincides neatly with congressional elections, and at which time presumably, Fernandez will have a somewhat more

amenable congress than the present. This "tactic" may in fact, be a bow to simple political reality. Most of what is proposed to be done in the area of justice reform requires the cooperation of Congress -- something which Fernandez currently does not have.

There is also the broader question of where justice reform stands in the line of policy priorities currently before government. Once again, it is not clear to the consultant team how quickly the government would sacrifice justice reform to one of many other priorities -- priorities which might well be considerably more politically rewarding.

VI. CONCLUSIONS OF THE STAKEHOLDER ANALYSIS AND MAPPING EXERCISE AND ELEMENTS FOR A JUSTICE REFORM STRATEGY

The overall configuration of the political system in general and the justice sector in particular, lead to several conclusions. Most of these not only represent threats to serious attempts at reform but also present real and interesting opportunities as well.

- There is an increasing sense of crisis in the justice sector. Problems have been recognized for some time, but it is only recently that events seem to be converging into crisis.
 - the transaction costs of justice have risen steadily, and according to many observers, to the point of intolerance.
 - abuses within the system have become increasingly open and scandalous -- the case of RUMBO was mentioned repeatedly.^k
 - there is a growing sense of awareness of the problems and conditions within the prison system. The current (interim) Director was eloquent in his description of the appalling state of the system.
 - the pressures of globalization and foreign investment are raising the visibility of defects in the system, and eroding the Dominican Republic's competitiveness.
- There is a growing demand from wide sectors of society. There are an increasing number of interests and pressure groups focussing on the problem, ranging from Human Rights groups, Unions, to the largest business association in the Dominican Republic. Although reform of the justice sector is not necessarily the first priority of any of these groups, it demonstrates a very wide breadth of demand for change.
- While pressure for change is growing, that demand is largely unarticulated, unmobilized, and unchanneled. Instead it is fragmented and desegregated. Most groups work on their own cause or interest in justice reform with little interaction with other groups. The primary exception to this is and has been FINJUS, which has worked with a variety of groups, but not on a stable or continuing basis.
- There is an emerging and growing interest in justice reform in the Dominican Republic on the part of the donors and the IFIs. Both the IDB and USAID have carried out studies (including this one) to determine demand, interest, and feasibility for a possible justice sector reform project.

Many respondents cited the case of the defamation case brought by Judges against Rumbo (following a story about judicial corruption in the magazine), in which a Judge from the same district approved a motion to embargo the assets of Rumbo pending settlement of the case.

- There has been some very moderate success in moving the reform agenda forward. The Constitutional reforms of 1994 created the Consejo Nacional de la Magistratura, and bills (legislative proposals) have been presented for the creation of the National Judiciary School, and for the establishment of the judicial career. Another major reform (Ley de Administracion Presupuestaria del Poder Judicial) has been prepared but not presented. However, there remains little movement on these issues in Congress.
- It is not likely that the pace of reforms will be fast or fluid. The government has multiple priorities, each (according to its advocate) just as or more important than the next. Decisions about what to do will be complex and time-consuming. Fernandez's government faces enormous resource problems. International donors might be able to alleviate but will be unable to solve the problem. With low resources and multiple priorities, the pace of reforms will most assuredly be slow.
- For real progress on reforms to take place, considerable bargaining will be required. The judicial system has been a key and traditional source of patronage: to expect it to change quickly or for Fernandez to ignore it entirely as a place for party loyalists is probably unrealistic. At the same time, if Balaguer's control over the Senate cannot be broken, then he will have to be reckoned with as well.
- The leadership base for justice reform is too narrow. Most, if not all, of the leadership for reform rests with FINJUS, but more particularly with Milton Ray Guevara. Indeed justice reform appears mostly identified with FINJUS and Guevara. However, FINJUS's credibility and legitimacy as the leading institution in civil society for the promotion of justice reform has been questioned after Ray Guevara's participation in the PRD's political campaign during the last presidential elections. While there is an attempt to develop a greater leadership role in the government, that role is not yet well defined (or accepted).

Clearly, the needs in justice reform are at once complex and daunting. There is virtually no area within the justice sector that does not require reform of one sort or another. While there is great demand for justice reform, it is uncertain whether there is a commensurate level of support and resources in and out of government to satisfy those demands, despite the new government's receptivity or the opportunities presented by the dramatic shift of support seen in the justice sector micro-political map.

Following the framework developed by USAID's report "Weighing the Scales of Justice," it is clear to the team that there is a lack of strong leadership in both the public and civil society sectors in support of justice reform. This is particularly true given what appears to be a recent weakening of FINJUS leadership and the uncertainty over the role to be played by the Secretario de Estado para la Reforma Judicial. Under these circumstances, **the team recommends a strategy which emphasizes coalition and constituency building in order to mobilize and more clearly articulate the demands of currently disperse groups behind a more focussed and stronger agenda for justice reform.**

Given the complexity and urgency of the demands, there appear to be **two broad avenues that can be taken in the development of any strategy for justice reform.**

- **Assistance in broadening the leadership and active support base for reform** in both civil society and government. Greater support and broader leadership is absolutely indispensable for the implementation of a long term and sustainable strategy for justice reform.
- **Specific targeted interventions or assistance to eliminate bottlenecks and other pressing problems** to allow the principal actors and decision makers to focus on the broader issues of justice reform.

Since it is probably impossible to attend to all the needs for justice reform, the USAID Mission needs to consider a series of choices for development of a strategy. These choices represent the who, the what

and the how. The who refers to the agencies that will be worked with, government or civil society. The what refers to those areas of justice reform to be worked on, judiciary reform or administration of criminal justice. The how refers to the type of mechanisms adopted, whether they are designed to achieve fast results or pursue a longer range strategy. These are not meant to be mutually exclusive but should rather be seen as points of reference that might receive greater emphasis over another.

A. Who: Government and/or Civil Society

This is not an either/or proposition. For the long haul **both government and civil society leadership must be broadened in order to balance the demand and supply equation for justice reform.** In the short run, however, a determination must be made regarding which sector deserves priority support and which sector will likely have greater pay-off in advancing justice reform.

At this point, government leadership, while committed, is both at an early and tentative point. It is unclear to the consultant team whether the vehicle chosen by the government, i.e. the Secretario de Estado para la Reforma Judicial, will have enough resources and capability to move the reform process forward. Secretario Almeyda seems focussed on conducting additional assessments of the justice sector rather than undertaking any specific and concrete actions. It is also unclear what the level of resources available to the Secretario and his technical team will be.

Since it is likely to take some time to develop a resource base within the government for Almeyda's activities. **USAID and other donors could play an instrumental role in supporting either the technical team's efforts or the *Comisionada para la Reforma y Modernización de la Justicia (Comisionada)*** The commitment already given by USAID for support of studies and other activities requested by Almeyda and his technical team will help to provide immediate impact which should help energize the efforts of these groups.

Specific types of assistance to the *Comisionada*, such as financing workshops and forums will reinforce the early efforts of the government and help to strengthen the notion of broader leadership. **Given the fluidity of the political context, however, USAID should be cautious in committing medium or long term resources to either the *Comisionada* or Secretario Almeyda.** It should be recalled that Almeyda's group may be subsumed under the Comisión para la Modernización del Estado. And even if this were not the case, some doubts have arisen regarding Almeyda's capacity to deliver significant results within a short timeframe.

With the uncertainty of the political environment and the tentative leadership capacity of the government, **civil society offers the best potential for the development of sustainable, broadbased leadership for justice reform.** However, the problem at this point is that most of civil society groups are small and unmobilized. An approach which emphasizes coalition building given the disperse and fragmented nature of current civil society efforts in justice reform would likely have the greatest payoff.

Despite FINJUS's recent Foro Nacional and other events such as the ANJE conference in April, no group actually seems to be focussed on the problem of developing a strong coalitions for reform. Indeed, some of the efforts in justice reforms are at risk of being co-opted by the government's proposed *Comisionada*.

The consultant team feels that **it is extremely important that USAID consider mechanisms for developing and strengthening coalitions BOTH for judiciary reform as well as for administration of criminal justice.** The reason for both is that the team does not feel there is enough crossover interest on the justice sector map to allow for a single strong coalition. FINJUS, with some restructuring, might provide the center for the development of a strong coalition for judiciary reform. On the side of criminal justice reform, however, the locus for developing a coalition remains unclear. **Externally facilitated workshops and networking with various groups within this sector could provide the conditions for the development of a coalition.** Other types of activities may include:

- assistance in **development of leadership groups** (eg., the Consultative Group which was earlier put together to work with USAID on assisting the process of reform)
- **strengthening strategic planning capability** of specific leadership groups (eg., *Comisionada*, FINJUS)
- **sponsorship/facilitation of conferencias and workshops** aimed at building consensus and a sense of priorities among groups active in the area of justice reform.

B. What: Judiciary Reform and/or Administration of Criminal Justice Reform

Judiciary reform, as stated in various places in this report, is clearly the most articulated area for reform while administration of criminal justice remains the missing element.

Judiciary reform has attracted the interest not only of the best equipped groups within civil society, but has also attracted the interest of many donors. The Inter American Development Bank is proposing a major loan which is focussed on activities supporting judiciary reform.

While a number of efforts are under way (i.e. *ley de carrera*, *escuela de judicatura*, *ley de administracion presupuestaria*), there is as yet no comprehensive strategy nor consensus about what a strategy might look like for reform of the judiciary. An overall strategy for judiciary reform was proposed by the IDB report presented at the recent FINJUS's Foro Nacional. It is not at all clear, however, whether the government will in fact adopt the strategy recommended. In any event, any significant reform of the judiciary will require new legislation and major institutional overhaul.

While judiciary restructuring is indispensable to the long run health of the justice sector, the pressing problems of the criminal justice cannot be ignored. The situation mentioned in this report can be substantially improved by strengthening the capacity of the *Ministerio Publico* to fully comply with its investigative and prosecutorial responsibilities. An effective *Ministerio Publico* should not only deal with the cases accumulated over the years and reduce them to a reasonable number, but it should also alleviate the congestion of the system by performing an adequate screening of cases once reported by the police.

While certainly important to develop a comprehensive strategy for fixing the problems of the administration of justice, **considerable mileage can be gained from targeted interventions.** At the same time, many of the efforts can be achieved without the need for legislative approval or major institutional change. The institutional and legal framework provides, on the whole, an adequate base for making the changes necessary to improve the administration in the criminal area. What is missing is full implementation of the law.

Given the abundance of resources proposed for assistance in reform of the judiciary and the relative lack of attention to criminal reform given by most donors, **USAID's limited resources might find greater impact by working in the criminal area.** It is important to remember the criminal reform is not just a matter for the public sector and that numerous groups within civil society are active in this area.

C. How: Fast Results and/or Long Term Strategy

While a long term strategy will be indispensable to a successful reform of justice in the Dominican Republic, short term needs and results must not be overlooked. The nature of the task described earlier (broadening of leadership and targeted interventions) is such, that both short term and long term activities are required.

Coalition building and development of consensus, as well as the changes in laws and structures required, will take a great deal of time and more than likely, encounter numerous obstacles on the path to implementation. Activities with short term impact will play an important role in sustaining the momentum of reform. Much of the short term activities with high potential pay-offs lie in the criminal area, such as:

- training of prosecutors,
- support for public defenders,
- implementation of model fiscalias and courts,
- purchase of basic legal materials and codes,
- assistance in restructuring office space and acquisition of basic commodities,
- developing improved information systems.

APPENDIX A:
MACRO-POLITICAL MAPS

APPENDIX B:
JUSTICE SECTOR MICRO-POLITICAL MAPS

APPENDIX C:
STAKEHOLDER TABLE

GROUP	INTEREST	RESOURCES	CAP/ MOBIL	POS. +/-
Colegio de Abogados	Maintain status as lead organization of legal profession. No apparent interest in leading reform. Status quo minded. Used as platform for personal polit. ints.	Registry with Colegio obligatory to obtain license. Funded by state. Large membership. Eroded status - prestige. Low level of active members.	very low	-
Asociación Dominicana de Abogados (ADOMA)	Largest lawyers association. Maintain status as leading lawyers assoc. Sporadic efforts in contin. educ. (Politicized?)	Large membership but low level of participation. No current leadership. Low economic resources.	low	-
Colegio de Abogados de Santiago	Interested in reform and clean up of judicial system, exercise of disciplinary authority by Colegio, passing of Ley de Carrera Judicial, and autonomy from the Executive.	Strong active membership, considered the most prestigious and activist. Conference organized in 1996 with Asociacion de Abogados de Stgo drew more than 700 participants.	med./ high	+
PUCMM	Visible leadership role in economic and political reform. Int. in improvement of curric., maintenance of quality legal education.	Access to intl. donor agencies. Nexus to Church. Prestige of faculty and institution. Past record as "mediator" in political crises. Friction between Cardinal and Rector has eroded it "poder de convocatoria"	med.	+
UASD	Controlling and improving quality of legal education. Re-assert role as leading law school. Assure resource flows for operations, and improvement of service.	Oldest, largest law school. Leading members of legal prof. graduates. Precarious financial status. Affected by politicization of University.	low	+
UNPHU	Improve quality of judiciary and legal education. Strong interest in formalization of judicial training.	Activist (justice reform) professors. Prestige/respect of university and law school.	low to medium	+

GROUP	INTEREST	RESOURCES	CAP/ MOBIL	POS. +/-
Comité Dominicano de Derechos Humanos	Reform of penal procedure. Reform of Colegio de Abogados. Human rights education. Improvement of prison conditions, admin. Creation of Judicial Police. Increase and training of ayudantes fiscales, creation of Proc. Der. Humanos.	No financial resources. Large motivated membership. Status affected by poor image of other human rights groups.	low to medium	+
Instituto de Derechos Humanos, Rep. Dom.	Penal system reform, court restructuring and simplification of codes. Improvement of legal education. Reform of police.	Moderate intl. contacts. Small organization. Member of consultative committee. Access to internl. documentation.	low	+
Sindicatos	Interested in labor law reform and efficient administration of justice.	Very fragmented. Some with large membership but with varying degrees of commitment and participation. Low financial resources	low	+
Grupo de Acción por la Democracia	Leadership and building consensus for national political, economic and social reforms. Building wide range of networks (private sector orgs. to NGOs and municipalities). Uncertain future status.	Highly inclusive membership organized in chapters throughout country. Strong influence of the Church and PUCMM. Funding from internl. donor agencies. Status? High "capacidad convocatoria". Too broad an agenda?	medium /high	+
CEDAIL	Organized by the <u>Conferencia Episcopal</u> in 1979. Works with a staff of 30-35 full time lawyers in five main areas: land issues, criminal justice, juveniles, labor law and human rights. Interested in improving the administration of criminal justice, especially reducing arbitrary detentions by having better trained police and effective prosecutors.	Highly motivated staff with a steady, although low level of funding; services the whole country, having offices in all nine judicial districts; incipient network with other NGOs working on criminal justice.	low/med .	+

GROUP	INTEREST	RESOURCES	CAP/ MOBIL	POS. +/-
CENSEL	With 5 full time lawyers, works principally in Santo Domingo providing legal assistance to women of scarce financial means. Although not interviewed, it is mentioned here for its interest in improving the administration of criminal justice including prison conditions.	?	?	+
Accion Juridica Institucional	Publishes the only legal periodical discussing current affairs related to justice reform called "La Toga". Interested in reforms in the administration of criminal justice.	Thin financial support but highly motivated and proactive board of directors. Not constituted as a legal entity yet. Good working relationship with other groups interested in criminal reform such as the Comité Dominicano de Derechos Humanos.	low	+
CIPAF	Improvements in legal system as affects women. Interest in public policy studies, negotiating package of laws before Senate. Active member of Coordinadora de ONGs de la mujer.	Internat. network, good pub. relations capac., access to information -- data base organization through surveys. Lobbying capacity.	medium	+
Comité de Mujeres Asesoras del Senado	Preparation of legislation to reform Penal Code.	Under leadership of Milagros Ortiz Bosch. Close connection to PRD.	?	+
FINJUS	Promote reforms in the justice sector (structural, substantive and administrative). Current interest: implementation of CNM, passage of current legislation including Ley de Carrera Judicial, Escuela de Magistratura y Ley de Administración Presupuestaria.	Limited financial resources. Thin leadership. Wide representation through consultative group. Prestigious but under-utilized board of directors. Controversy over party affiliation of Executive Director..	medium	+

GROUP	INTEREST	RESOURCES	CAP/ MOBIL	POS. +/-
ANJE	Concern for improved legal and judicial environment for business. Interest in providing forums for discussion of reforms in social, economic and political areas.	Capacity for information dissemination and organization of high level seminars. Growing "capacidad convocatoria".	medium	+
CONEP	Broad agenda of social, economic and political reforms. Increasing militancy. Endorses FINJUS agenda. Maintain role of leader among business assoc.	Funding from internl. donors. Other financial resources? Current strong committed leadership. Lobbying capacity. Information generation capacity. Representativeness? Presidency will change at end of year.	medium to high	+
JAD	Organization of land titling and improvement of tenancy law. Conducting programs in education and dissemination of information on land titling.	Well respected private sector organization. Access to funding from internl. donor agencies. Professional staff. Information generation capacity. Lobbying capacity. Strong status quo pulls? Follow-on funding?	Medium to high	+
ASIEX	Interested in reliable transparent judicial system to solve disputes, reducing transaction cost and enhanced competitiveness for foreign investment.	Financial resources, representation of large transnational companies.	Low/ Med.	+
CEDEMPRESA	Interested in legislative reform as it affects economic issues. Dissemination through workshops and seminars.	Works with private sector associations and prominent law firms. Small staff.	Low	+

GROUP	INTEREST	RESOURCES	CAP/ MOBIL	POS. +/-
AAE -Asociacion de Abogados Empresariales	Reactivated two months ago with the election of a new board of directors. Interested in reform of the judiciary and promoting ADR.	Selective membership -- only by invitation-- gives the association cohesiveness and a capacity to quickly respond to government proposals; more reactive than proactive in their approach; members coming from large companies could potentially mobilize financial resources if needed.	Low	+
ANA - Asociacion Nacional de Abogadas	Association of women lawyers created in 1963. Large membership. Interested in providing continuing legal education and in promoting reforms in the administration of criminal justice, especially in relation to women and prisons.	Scarce financial resources but good organizational skills; medium "poder de convocatoria" demonstrated by high attendance at their seminars.	Low/med	+
Prominent Law Firms	Concerned about lack of a competent, efficient and reliable justice system. Interested in decisions based on the law and reducing transaction costs. Maintaining clients and income base.	Financial resources, information, intimate familiarity with workings of system, prestigious lawyers, large staff. Not prominent actors, resist controversy.	Med.	+
Print Media	Advertising revenue. Modest, usually non-threatening reform measures. A limited number publish invest. reports.	Circulation, information and access. Financial resources as part of larger economic groups, which also limits aggressiveness.	Medium	-/+
RUMBO	Ability to report freely on sensitive political, economic and social issues. Interested in generating discussion and debate on a broad range of reforms.	Strong information gathering and dissemination resources. High visibility. Respected. More aggressive than most.	Medium	+

GROUP	INTEREST	RESOURCES	CAP/ MOBIL	POS. +/-
El Siglo	Interested in pub. invest. reports on drug trafficking and impact on corruption of jud. system.	Respected reporters. Circulation. Good sources of info. Assertive.	Medium	+
Ex-President Balaguer	Status quo. Control over nominations of magistrates to Supreme Court. Concerned with investigation into his administration.	Highly loyal, large political org. built up over years of clientelistic benefits.	Med/ High	-
Presidente Leonel Fernandez	Support to Justice Reform but mixed signals concerning priorities for government intervention and timing.	Hostile Congress and large bureaucracy at intermediate levels still loyal to Balaguer may block any serious attempts to reform justice sector through legislation. Relatively weak bargaining position.	Med.	+
Secretario del Estado para la Reforma Judicial	Interested in developing a strong govern role and an agenda for justice reform. Assisted by a part-time technical team of 4 lawyers and 1 economist.	Status uncertain; possibly will become a sub-commission of the Comision de Modernizacion del Estado. Ressources for technical team not assured.	Med/low	+
Comisionada para la Reforma y Modernización de la Justicia	Has not yet been created formally. It is expected to include representatives from the 3 branches of government, civil society, universities and bar associations. Objectives and scope of activities still to be determined.	May provide a forum for all actors interested in justice to discuss reform. Unclear capacity to undertake and lead concrete actions for reform.	?	+
Comisión para la Modernización del Estado	Recently constituted by decree. Operations and agenda not yet defined.	?	?	?
Senado de la República - Comisión de Justicia	Interested in status quo (have not processed important reform bills). Interested in Constitutional reform to maintain input in selection of judges.	Key element in legislative process for judicial reform. Majority PRSC. Can mobilize to block reform.	Med. to high	—

GROUP	INTEREST	RESOURCES	CAP/ MOBIL	POS. +/-
Cámara de Represent. -- Comisión de Justicia	Interested in promoting constitutional reform.	Key element in legislative process. Unclear about priority for judicial reform. Opposed to government. PRD has majority.	med.	+
Suprema Corte de Justicia	Preservation of reputation. Status quo oriented. Control/input into nomination of next court? Swing vote on CNM.	Very elderly. Low productivity. Prestige signif. eroded. Strong link to Balaguer. Has power to sanction judges.	low	(-)
Consejo Nacional de la Magistratura	Recently constituted; has as its sole function to elect magistrates to the Supreme Court. Political parties will play a substantial role in CNM's decisions. Operating procedures slowly being defined.	?	?	?
Jueces y Magistrados	Improved conditions and greater assistance. More security of resources and smaller caseload. Permanence in position and/or impunity.	Support from Senators and status quo groups. Highly vulnerable with implementation of ley de carrera. Low prestige. Discredited.	low	-/+
Personal administ. del Poder Judicial	Improved conditions (better resources and offices) and pay. Greater job security, more training. Ley de carrera civil? Passage of Ley de Presupuesto Judicial.	Low prestige. Highly vulnerable to staff change with turnover of government. Perceived as corrupt.	low	+/-
Jueces de Santiago	Improve conditions for Judges, assure funding resources, establ. CNM, ley carrera, Escuela Mag. and approval of Ley de Admin. Presup. del Poder Judicial.	Considered best court in country. Wide poder de convocatoria. Capacity for lobbying.	Medium	+
Movt. Jueces Cibaños	Broader group; interested in improving conditions and functioning o fjudicial system.	Sporadic meetings issue-oriented.	Low/me d	+

GROUP	INTEREST	RESOURCES	CAP/ MOBIL	POS. +/-
Procurador General de la República	Considers justice reform the essential missing piece of modernization of the state. Interested on institutionalization of the Judiciary, independence from the Executive, and correct application of the law. Concerned about Supreme Court exercising its role in terms of discipline and the management of the judiciary system.	Technical capability for exercising disciplinary role of all members of the judiciary and the Ministerio Público. Low resources and dependency on the Executive (staff appointed by the President). Low mobilization capacity.	Low	+
Procuraduría del Distrito Nacional de Santo Domingo	Procurador Fiscal interested and actively involved in restructuring the Procuraduría with new, better trained fiscales.	Highly respected Procurador, both in public and private circles. Low financial resources ; good command of the media.	Medium	+
Policía Nacional	Small initiatives by some officers to improve police methods, investigative capacity. Congestion at top. Maintain internal discipline.	Discipline, adjunct of military. Only organized police force. Insuff. resources to modernize. Poor pay.	medium to low	(-)
Cardenal	Interested in status quo. Maintenance of alliance with Balagueristas.	Head of Catholic Church. Receives funds from government for maintenance and construction of churches. Friction with Rector of PUCMM.	Med.	-
Iglesia Católica	Conferencia Episcopal: concerned about rights of the poor; Pastorales: specific concerns about prisons, human rights, juveniles and women.	Status/moral authority of the Church. Ability to network with other groups. Access to government. Resources lose effectiveness because of internal divisions.	Med.	+
PRD	Party platform in favor of judicial reform; position of Congressional delegation unclear.	Largest political party. Has working majority in Cámara	Medium	+

GROUP	INTEREST	RESOURCES	CAP/ MOBIL	POS. +/-
PLD	Proposed the strongest platform for justice reform.	Currently weakest of three major political parties in Congress. Has 1 senator and few diputados. Capac. to advance reforms in Congress limited.	Low/ Medium	+
PRSC	Weakest proposals of all party platforms on jud. ref. As govt. party identified with status quo.	Current majority in Senate, capacity to block reform. PRSC control of most govt. institutions.	Med./	-
USAID	Emphasis on democracy governance agenda. Justice reform is high priority and complements activity in other DG areas	Financial resources to undertake ltd. activity in justice reform. Mission vulnerable to current budget cuts.	Med.	+
Interamerican Development Bank	Undertaking diagnostic with asst. of FINJUS. Mod. state and Justice reform growing priority for Bank.	Large loan possible. Presence of IDB loan in sector should cause greater confid. for investment. Loan process is not quick.	Med.	+
ILANUD	Primary interest is in working with reform of judicial systems. Completed diag. of DR system in late 80's. Poss. int. in returning.	Low financial resources. Primarily a technical asst. org. Has mixed reputation.	Med.	+

APPENDIX D:
GLOSSARY OF LEGAL TERMS

1. The Judiciary System - General Information

1.1 Organization of the Judiciary

Supreme Court of Justice

- . national jurisdiction

9 Appellate Courts

- . regional level
- . only one in Santo Domingo

14 Tribunals of First Instance

- . provincial level
- . one in Santo Domingo

Juzgados de Paz

- . municipal level

1.2 Special Jurisdictions

Cases against the military or the police, land disputes and cases involving minors are solved in special courts, the so-called "jurisdicciones de excepción" and do not enter the judiciary structure described above.

1.3 The Jurisdiction of Santo Domingo

a. Tribunal of First Instance

(i) Is divided into:

- * five "cámaras" (chambers) in charge of civil and commercial claims
- * one for labor disputes
- * ten for criminal matters

(ii) Each cámara has a staff of four: one judge, one secretary and two "alguaciles". Until now, the judge was appointed by the Senate, the rest of the staff by the Executive Branch. After the 1994 Constitutional reform, judges will be selected by the Supreme Court whose members will be appointed by the "Concejo Nacional de la Magistratura."

(iii) the criminal chamber has a "procurador fiscal" who represents the "Ministerio Público".

b. Appellate Court:

- (i) Is divided into two "cámaras", one for civil, commercial and labor disputes, and one for criminal matters.
- (ii) Has five judges; needs at least three to hear a case.
- (iii) Its administrative staff includes a secretary, an assistant and two "alguaciles", all appointed by the Executive Branch.
- (iv) The "Ministerio Público" is represented by a Procurador General.

1.4 Supreme Court of Justice:

- a. Composed of 11 magistrates to be elected by the Consejo Nacional de la Magistratura.
- b. Legal requirements to become a magistrate of the Supreme Court are:
 - (i) to be Dominican by birth or origin, and to be at least 35 years old
 - (ii) to be in full exercise of civil and political rights
 - (iii) to hold a license or degree in Law
 - (iv) to have at least 12 years of experience as a lawyer, a judge or a magistrate.

1.5 Consejo Nacional de la Magistratura

To be conformed as follows:

- a. President of the country
- b. President of the Senate
- c. A senator from a political party different from the Senate President's political party, to be selected by the Senate
- d. President of the Chamber of Deputies
- e. A deputy from a political party different from the President of the Chamber political party to be selected by the Chamber.
- f. President of the Supreme Court of Justice
- g. A magistrate of the Supreme Court of Justice to be selected by the Supreme Court.

1.6 Ministerio Público

The "Ministerio Público" is the body in charge of prosecuting criminal cases before the courts. Its staff is appointed by the Executive Branch.

- a. The "Ministerio Público" is composed of :
 - (i) 1 the attorney general (Procurador General de la República) who represents the Ministerio Público before the Supreme Court of Justice

- (ii) 9 prosecutors for the Appellate Courts, one per Appellate Court (procurador general de la Corte de Apelación)
- (iii) 14 "procuradores fiscales", one per tribunal of first instance.

There is only one prosecutor in each judicial district. Although prosecutors may have assistants, having a single prosecutor in charge of important jurisdictions like Santo Domingo creates serious bottlenecks in the process.

- b. The main responsibilities of the Attorney General include:
 - (i) as head of the Ministerio Público, the Attorney General supervises all acts performed by prosecutors and the Judicial Police, and can undertake disciplinary actions against them.
 - (ii) supervise all "funcionarios públicos" to assure compliance with the law in their acts as public civil servants.
 - (iii) act as prosecutor in criminal cases heard before the courts.

1.7 Recourses

- a. Recurso de Oposición: is a request to review and modify a decision submitted to the same judge who issued it.
- b. Recurso de Apelación: occurs when a higher court is requested by one of the parties to review the decision issued by a lower court.
- c. Recurso de Casación: is the last recourse a party has against a judgement; it is decided by the Supreme Court of Justice. "Casar una sentencia" means to "break" a decision in which case the case is sent back to the Appellate Court for a new decision.

1.8 Inscripción en Falsedad

When a judiciary officer performs an act in violation of the law, for example in the case of "notificaciones en el aire", the affected party can challenge the validity of such act through a "inscripción en falsedad." However, if the violation is not proved, the party who challenged the act may be subject to imprisonment.

1.9 Requirements to practice law: to practice law before the tribunals, a person needs:

- a. to be at least 18 and be dominican;
- b. to hold a law degree from an authorized university;
- c. to be of good moral character and not have been convicted of a crime;
- d. to have obtained authorization from the Executive Branch through an "exequatur";
- e. to be sworn-in by the Supreme Court of Justice;
- f. to be registered in a tribunal of first instance.

2.0 Disciplinary Sanctions against judiciary personnel and lawyers

a. Against judges and magistrates

Magistrados and jueces de instrucción are under the supervision of the Suprema Corte de Justicia. The Suprema Corte can investigate an alleged misconduct of a magistrate or a judge and undertake disciplinary sanctions. Sanctions can take the form of written reprimands, suspension without salary and removal from office. However, if the violation amounts to a criminal offense, the Ministerio Público has authority to initiate a criminal process against the officer in question.

b. Against procuradores

Prosecutors (Ministerio Público) are under the supervision of the Procurador General de la República. All prosecutors, including the attorney general, are appointed by the Executive Branch, and are therefore under its direct supervision. The Ministerio Público does not have a statute regulating its functions, organization and operations. As a result, there are no clear procedures for dealing with cases of misconduct within the institution. Primitive disciplinary sanctions are contemplated in two articles of a 1927 law dealing with the organization of the judiciary. According to this law, prosecutors may be subject to reprimands by the attorney general, removal from office ordered by a tribunal as part of a condemnation judgement or by decree of the Executive Power.

c. Against lawyers

Lawyers are required to follow the Code of Professional Ethics in their work. In theory, the Colegio de Abogados has oversight over all lawyers in the country. The Disciplinary Tribunal of the Colegio can investigate a lawyer and even revoke his/her license to practice law. Decisions of the Disciplinary Tribunal can be appealed to the Supreme Court of Justice.

2. **Criminal Cases and the Judiciary**

2.1 The Criminal Process

A criminal action goes through four different stages before the actual trial:

a. Detention and preliminary investigation: to be conducted by the policía judicial (mostly by the national police)

A judicial police or "policía judicial" is in theory in charge of investigations. However, there is no judicial police constituted yet. Investigations are carried out mostly by the national police, although prosecutors, "fiscales" and "jueces de instrucción" have also authority to investigate criminal cases.

b. Accusation: to be done by prosecutors or Ministerio Público

If the case has "merits," the "Ministerio Público" or a prosecutor makes the accusation against the detainee and sends the case to the "Juez de instrucción criminal."

c. Investigation: done by the jueces de instrucción

The juez de instrucción interrogates the suspect, evaluates the evidence gathered so far and then sends the case for trial.

d. Trial: by courts and tribunals

At trial a judge will listen to the detainee in a public hearing and will issue his/her judgement.

2.2 Preventive Detention = Prevención o prisión provisional

In most civil law systems, preventive detention is a security measure that applies to criminal offenses punished by imprisonment of 6 months or more. A police officer who has witnessed a crime can arrest a person and detain him/her preventively; the police can also arrest and detain a person based on the denunciation of a third party, whenever there are indicios graves de culpabilidad (strong evidence of culpability). The suspect is imprisoned for no more than 48 hours, during which time the appropriate authority (most likely a prosecutor) analyzes the evidence, interrogates the suspect, and decides whether or not there is enough merit to pursue the case in justice. If after the first 48 hours the suspect has not been heard and a preliminary decision on the case has not been made, he/she must be released or else the detention becomes illegal, affecting the validity of a future criminal procedure. Extension of the first 48 hours can only be granted by the appropriate authority.

The Dominican Constitution, under individual rights and liberties, includes provisions stating that a detainee has the right to be heard by the appropriate authority within 48 hours or else be released, and that any person arrested in violation of this provision "will be released immediately at his/her own request" (Art. 8, numeral 2). The mechanisms for applying these provisions, i.e. implementing legislation, are however, far less developed. The only type of preventive detention contemplated in the Code of Criminal Procedure refers to the one that can be ordered by a juez de instrucción during the investigation phase, after the suspect has been interrogated (prisión provisional). The judge needs to notify and hear the prosecutor before ordering the detention. Likewise, the judge requires the prosecutor's agreement to release a person being held under preventive detention (Arts. 94 - 112).

2.3 Querella: lawsuit, claim

2.4 Policía Judicial

Is in charge of conducting preliminary criminal investigations and detaining suspects of a crime. In the Dominican Republic the judicial police does not exist as a separate entity. Rather, different agencies are authorized to "act" as judicial police for investigating crimes, i.e. the national police, jueces de Instrucción, and prosecutors.

2.5 Jueces de Instrucción

There is one juez de instrucción criminal per judicial district. They are primarily in charge of completing the investigation of a criminal case through interrogations of the suspect and witnesses and a visit to the scene of the crime (Art. 71 CPP). The accused is not present when witnesses are being interrogated (Art. 73 CPP).

Jueces de instrucción can act as policía judicial, in which case, they are under the supervision of the Attorney General.

2.6 Abogados de Oficio

These are lawyers appointed and paid by the court to represent a person during trial (Art. 221 CPP). They do not know the case before the actual date of the public hearing where the case will be judged.

2.7 Desacatados

Are people who despite having been granted conditional liberty are still in jail. "Desacato" means non compliance with an order.

2.8 Constitución de Parte Civil

Refers to a claim for damages that is made in a criminal case by a person who was affected by the commission of the crime being tried. (Art.63 CPP).

2.9 Habeas Corpus

Habeas Corpus is a recourse given to people who have been detained as suspects of having committed a crime but who have not yet been tried by a judge or a tribunal. With it, the detainee is asking first, to know the reasons why he/she was imprisoned and second, to be released in accordance with the law (Ley de Habeas Corpus, No. 10 del 23 de noviembre de 1978).

APPENDIX E:

LIST OF CONTACTS AND PEOPLE INTERVIEWED

1. NGOs

- Milton Ray Guevara, Director Ejecutivo, Fundacion Institucionalidad y Justicia, Inc. (FINJUS)
- Yolanda Martínez, Coordinadora de Proyecto de Defensores Públicos, FINJUS
- Wellington Ramos Messina, Miembro, Junta Directiva, FINJUS
- Teresa Peña, Directora de Proyecto Defensores Públicos
- Virgilio Almanzar, Presidente, Comité de Derechos Humanos
- Marcelino de la Cruz, Comité de Derechos Humanos
- Genaro Rincón, Comité de Derechos Humanos
- Serbando Hernández, Comité de Derechos Humanos
- Isidoro Santana, Secretario Fundación Siglo XXI
- Eduardo García Michel, Presidente, Fundación Siglo XXI
- Carlos Despradel, Presidente, Centro de Orientacion Economica
- Ramón B. Martínez Portorreal, Director Ejecutivo, Instituto de Investigación, Documentación y Derechos Humanos de la República Dominicana
- Magalys Pineda, Directora Ejecutiva, Centro de Investigación para la Acción Femenina CIPAF.
- Pedro Ubiera, Director General, Centro Dominicano de Asesoría e Investigaciones Legales CEDAIL.
- Maria Victoria Mendez, Directora División Jurídico-Legal, Centro Dominicano de Asesoría e Investigaciones Legales CEDAIL.
- Rhadys Abreu de Polanco, Presidenta, Asociación Nacional de Abogadas, Inc.- ANA-.
- Guillermo Caraballo, Acción Jurídica Institucional.
- Miguel Angel Heredia Bonetti, Centro de Estudios Empresariales

2. Private Sector

- Andrés Marranzini Pérez, abogado, miembro del Grupo Consultivo, y del Equipo Técnico de la Comisionada para la Reforma y Modernización de la Justicia
- Luis Heredia Bonetti, abogado, Russin, Vecchi & Heredia Bonetti
- Juan Manuel Suero Vélez, abogado, Russin, Vecchi & Heredia Bonetti

- Marcos Pena Rodríguez, abogado, Russin, Vecchi & Heredia Bonetti
- Emigdio Valenzuela Moquete, abogado, Esquea & Valenzuela
- Juan Manuel Pellerano, abogado, Pellerano & Herrera
- Mark Freehill, Translation and Communications Consultants
- Aníbal de Castro, Presidente Editorial AA (Rumbo)
- Marino Vinicio Castillo, abogado, Pelegrín Castillo
- Rosendo Alvarez III, Director General, Instituto Dominicano de Mercados de Capitales Inc.
- William Wall, Private Consultant
- Jorge A. Victor Rojas, socio director, SRM Consultores
- Claudia Fernández, Reporter, El Siglo
- Julio Bolívar Díaz, Director, Teleantillas
- Francisco Castillo, Director Ejecutivo, Consejo Nacional de Empresas Privadas
- Altagracia Suárez Bautista, Consultora Jurídica, Cámara de Comercio y Producción de Santo Domingo.
- Eduardo M. Trueba, abogado, J.M. Cabral y Baez.
- Francisco Alvarez Valdez, abogado, Headrick Rizik Alvarez & Fernández.
- Luis J. Jiménez, abogado, Russin Vecchi & Heredia Bonetti.
- Ramón Franco Thomen, asesor jurídico, Empresas Leon Jiménes, S.A.
- Osmar C. Benítez, Vicepresidente Ejecutivo, Junta Agropecuaria Dominicana, Inc.
- Ingrid Lavandier, Abogada, Junta Agropecuaria Dominicana, Inc.
- Emilio Martínez, Director de Administración, Junta Agropecuaria Dominicana, Inc.
- Fabiola Medina Garnes, Vicepresidenta y Asesora Jurídica, CODETEL.

3. Government Officials

- Franklin Almeyda Rancier, Secretario de Estado Comisionada para la Reforma y Modernización de la Justicia.
- Jorge Tactuk (sp.), Miembro, Equipo Técnico de la Comisionada para la Reforma y Modernización de la Justicia.
- Julio De Beras, Senador de la República, Presidente de la Comisión de Justicia del Senado

- Emmanuel Esquea Guerrero, Diputado de la Cámara de Representantes, Presidente de la Comisión de Justicia de la Cámara
- ----- Rodríguez Orbe, Procurador General de la República
- Luis Nelson Pantaleón González, ex-Procurador General de la República (Balaguer Administration)
- Rafael Alburquerque, Secretario de Trabajo
- Guillermo Moreno, Procurador Fiscal del Distrito Nacional, Santo Domingo
- Manuel de Jesús Pérez Sánchez, Coronel Abogado de la Policía Nacional, Juez Primer Sustituto del Juez Presidente de la Corte de Apelación de Justicia Policial
- Mildred Pérez de Vanderhorst, Asistente de la Suprema Corte de Justicia
- Bernardo Santana, Director de Prisiones

4. University Officials

- Manuel Ramón Sosa Pichardo, Consultor Jurídico y Profesor Titular de la Escuela de Derecho de la Universidad Nacional Pedro Henríquez Ureña
- Salvador Ramos, Decano Facultad de Ciencias Jurídicas y Políticas, Universidad Autónoma de Santo Domingo
- Franklin García Fermín, Vice Decano Facultad de Ciencias Jurídicas y Políticas, Universidad Autónoma de Santo Domingo
- Rhadamés Mejía, Vice-Rector Ejecutivo, Pontificia Universidad Católica Madre y Maestra.
- Flavio Espinal, Director Programa de Administración Pública, Pontificia Universidad Católica Madre y Maestra.
- Ramonina Brea del Castillo, Profesor

5. Interviews in Santiago

- Julio César Valentin, Procurador Fiscal de Santiago.
- Blas Santana, Procurador General, Corte de Apelación de Santiago.
- Silverio Collado, Presidente, Asociación de Abogados de Santiago.
- Victor José Castellanos, Presidente Corte de Apelación de Santiago.
- Erotides Rodríguez, Secretario General Colegio de Abogados de Santiago y Juez de Instrucción.

6. USAID and US Embassy

- Donna Jean Hrinak, Ambassador
- Marilyn Zak, Director, USAID
- Jesse Orozco, Deputy Chief of Mission, US Embassy
- Michael Deal, Deputy Director, USAID
- Dennis Linsky, Political Counsellor, US Embassy
- Abelardo Arias, Political Officer, US Embassy
- Colette Claude Cowey, Program Office, USAID
- Manuel Ortega, Democratic Initiatives Office, USAID
- Douglas Ball, USAID
- Ted Gehr, Program Office, USAID
- Efrain Laureano, USAID

7. Consultative Group

- Milton Ray Guevara
- Wellington Ramos Messina
- Yolanda Martínez
- Guillermo Moreno
- Ramon Martínez Portorreal
- Ramonina Brea Castillo
- Rosa Campillo
- Julio Aníbal Suárez
- Federico Silva Gassó
- Wenceslao Vega
- Vicente Estrella
- Teresa Peña
- Sonia Díaz
- Eddy Tejera

- Martín Montilla Luciano
- Luis E. Martínez
- Maritza A. Rodríguez
- María Teresa Rivero

APPENDIX F:
SCOPE OF WORK

APPENDIX G:

TECHNICAL NOTE - STAKEHOLDER ANALYSIS

APPENDIX H:

TECHNICAL NOTE - POLITICAL ENVIRONMENTAL MAPPING